Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No._____

In the
SUPREME COURT OF THE UNITED STATES
October Term, 1995

GERARD HENNESSEY, Pro Se,
and
LINDA ANN VEGA, Pro Se,
Petitioners,

versus

L. J. Blalack, Melissa Martin,
Robert Flowers, Lubbock County,
Rosemary Chivers, Don McBeath,
John Neal, Doug Greathouse,
Julie Martin, Patsy Summers, J. David Nelson et al,
Respondents.

On petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

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4100

QUESTIONS PRESENTED

1. Whether remedy exists for Petitioners who were deprived of liberty without due process of law by a justice of the peace without cause when they were in his court on non-judicial matters?

2. Whether remedy exists for Petitioners who were injured as a result of a longstanding custom and policy by state actors to facilitate and protect a justice of the peace who imposed and collected excessive fines and fees, and denied citizens access to court records, by threat of and actual arrest?

3. Whether remedy exists for Petitioners whose civil rights were violated by a corrupt enterprise whose participants, all state actors, conspired to facilitate and protect a justice of the peace whose longstanding and widely-known practice of extortion, obstruction of justice, official misconduct, official oppression, and abuse of office in order to benefit financially from unlawful revenue he extorted?

4. Whether absolute quasi-judicial and qualified immunity may be granted to clerks in the office of a justice of the peace who admitted under oath they had committed perjury with the stated intent of obstruction of official investigations of violation of Petitioners' rights, and to justify a baseless after-the-fact adjudication of direct contempt against Petitioner Hennessey?

5. Whether a motion for certification as a class action for more than 500 injured persons, may be denied without a hearing and without discovery? and whether a "headless class action" should be established for them?

6. Whether "suborning of perjury with intent to obstruct an official investigation and falsely adjudicate guilt", when done by a justice of the peace, becomes harmless "coaching" of witnesses?

7. Whether prosecutorial immunity may be granted to a prosecutor who fails and refuses to investigate evidence of widespread civil rights abuses freely available and widely known in the community, thereby facilitating and protecting the alleged corrupt conspiracy?

LIST OF PARTIES

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Ralph Brock
Louis Carillo
Randall Carpenter
R M Chivers
James Cummings
Linda deLeon
Lyn Duval
Colene Fielding
Sheila Fireman
Robert Flowers
James Gorsuch
Jim Hansen
Gerard Hennessey
Diana Holloman
Dale Jones
Stanley Kaster
Lubbock Independent School District
Lubbock County
Julie Martin
Melissa Martin
Mike Moses
Don McBeath
Terry McEachern
Jim Mull
Carlos Leal, Jr.
J. David Nelson
Sam Ogan
John Owen
Sunny Ratliff
Randall Sherrod
Patsy Summers
George Thompson
Linda Ann Vega
R. B. Adamson

MEMBERS OF THE PROPOSED CLASS:
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Elida Adams
Jimmy Adams
Maude Adams
Minerva Adams
R. B. Adamson
Barbara Aguilar
Marie Aguilar
Diane Alcorte
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Raymond Deleon
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Randall Douglas
Charles Dunn
Vins Earnest
C Edminister
John Edminister
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Freddy Elias
Russel Elliot
Joe Enaina
Dominga Enrique
Lupe Enriquez
D Ermique
Elizondo Ernest
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Francis Garcia
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Juanita Garcia
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Tom Watson
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Archie White
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Phyllis White
Sheila White
Ruby Whitfield
Bobby Williams
W William
Melanie Willis
Ronald Willis
Virgie Willis
Margaret Wilson
Tausha Winnebur
Angeliah Wood
Heidi Wood
Abe Woods
Mike Ybarra

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A: Opinions of the Court of Appeals

B: Orders of Trial Court

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I. OPINIONS BELOW

This is a Petition for Writ of Certiorari on denial by the Fifth Circuit Court of Appeals of consolidated appeals Nos.93-1808,-1809, -1835, -9009, -9010,09011,-9012,-9013,-9015,-9092,-9123, 94-10034,-10035,-10370 from the United States District Court for the Northern District of Texas Nos. 5:93-CV-78-C, 5:93-CV-221-C,-226-C,-240-C,-305-C,and -330-C, in an unpublished opinion dated August 30, 1994; Petitioners' Motion for Rehearing was denied on September 27, 1994. The Appeal Court's automatic Stay of Mandate granted by Local Rule 41, was extended on November 22, 1994, on condition that Petitioners file their Writ of Certiorari with the Supreme Court by December 16, 1994.

The District Court severed the following complaints from the original complaint, styled 5:93-CV-221-C, -226-C, -240-C, -305-C, and -330-C and dismissed [Doc93:Pp770-2; Doc94:P773; Doc95:Pp774-6; Doc96:Pp777-8; Doc201; Doc212] against the following defendants and these dismissals were appealed to the Fifth Circuit:

Appeals still before the Fifth Circuit: dismissal of complaint against L. J. Blalack [Doc224-5]; dismissal of complaint against J. David Nelson [Doc258-9]; denial of Motion for Reconsideration of Dismissal of RICO Claim [Doc217].

Members of Blalack' staff who knowingly made and/or notarized false statements: Melissa Martin, Julie Martin (also Melissa Martin's sister), Rose Marie Chivers, Patsy Summers;

Officials responsible for investigating citizens' complaints: Special Prosecutor John Neal, Investigator Doug Greathouse, and Texas Judicial Conduct Commission Chief Executive Officer Robert Flowers;

Officials and entities charged with administration of justice who received extorted funds: County Judge Don McBeath and Lubbock County, dismissal in part.

Other orders and judgments which Petitioners appealed:

Refusal to disqualify the presiding judge whose brother served from May 1992 until February 1994 on the Board of Trustees of Lubbock Independent School District, a state agency that knowingly and intentionally brought poor, unrepresented, uneducated citizens into the court of a Justice of the Peace L. J. Blalack, who was widely known to engage in severe and outrageous violation of civil rights on a regular basis.

Unfair protection of defendants against discovery, premature dismissal of complaints against co-conspirators before discovery, and denial of motion for joinder. Petitioners argued that the District Court's denial of plaintiff's discovery requests and granting of defendants' requests for protection against discovery as well as allowing defendants' discovery extensions and mooting discovery by means of premature dismissal of complaints, denial of motion for hearing on discovery [Doc124:P955], denial of joinder of other parties similarly injured by the corrupt conspiracy [Doc77:Pp517-525;Doc78:Pp526-536; Doc79: P537], have irretrievably impaired the rights of more than 500 Lubbock citizens injured by the corrupt conspiracy.

Granting of judicial immunity to Defendant Melissa Martin for damages caused by her unlawful non-judicial acts [Doc201: P19]--she also admitted to conspiracy to obstruct an official State of Texas investigation--and extortion, both racketeering activities. Petitioners filed their Notice of Appeal on December 6, 1993 [Doc204]. In their opinion of August 30, 1994, denying Petitioners' consolidated appeal, the Fifth Circuit Court of Appeals affirmed the District Court's grant of immunity, for which Petitioners seek the Supreme Court's Writ of Certiorari. the District Court's denial of Linda Ann Vega's Motion for Joinder also dismissed Vega's complaint against Melissa Martin for ordering her arrest for inability to pay the excessive fine imposed by L. J. Blalack on January 3, 1990.

Denial of class action certification. When Petitioners received the Welborn report, which was based on examination of Blalack's court records, they found themselves in the position of representatives of a possible class of 500. Petitioner Hennessey's motion for certification of the action as a class action [Doc50:Pp353-360] was denied on August 12 by the District Court

[Doc73:P512]. On August 13 Linda Ann Vega filed her Motion for Joinder [Doc77:P517] which the District Court denied on August 16 [Doc78: P526]. Petitioners filed their brief appealing this denial in their consolidated brief on January 12, 1994, denial of which is the subject of this Petition to the Supreme Court. In their subsequent Motion, Petitioners requested the District Court, in the event it did not approve them as representatives of the class, to certify a headless class and appoint an attorney and representative from among the list of members of the proposed class [Doc83:P616]. On September 13 the District Court also denied this request [Doc114:P883], as did the Fifth Circuit Court of Appeals. In order to avoid jeopardizing the interests of this large group of citizens, particularly as Petitioners were acting Pro se, Attorney Val Varley agreed to represent them all if a 60-day continuance on the deadline for filing pleadings and amended complaint could be obtained. Petitioners' request for continuance was denied by the District Court [Doc174], leaving members of the proposed class unrepresented. The District Court refused to grant this extension although Defendants had been given liberal extensions of time in order to avoid discovery; subsequently the District Court denied this certification request on grounds that Petitioner Hennessey was not a class representative [Doc114], which was appealed to the Fifth Circuit and denied in the consolidated opinion and is now the subject of this Petition.

Dismissal of RICO claims. Petitioners' RICO claims were dismissed by the District Court on August 25, 26, 30, and September 24, 1993 [Docs93,95,96,140,212,224]; Petitioners' appeal brief was filed with the Fifth Circuit Court of Appeals on January 18 , 1994. and the appeal was denied on August 30, 1994. Petitioners' Motion for Reconsideration in light of NOW v Scheidler 114 S.Ct. 798 (1994), filed on February 1, 1994 [Doc216], was denied by the District Court on February 2, 1994 [Doc217]; Petitioners filed their appeal brief to the Fifth Circuit Court of Appeals on July 26, 1994, which is still before the Appeals Court.

II. JURISDICTION OF THE SUPREME COURT

Jurisdiction of the Supreme Court is indicated by Rule 10.1 of the Rules of the Supreme Court, as follows:

(a) The Judgment of the Fifth Circuit Court of Appeals is in conflict with decisions of other United States Courts of appeals, and with state courts of last resort in that it affirmed the District Court judgments and orders that:

- dismissed a motion for class action certification without discovery or a hearing, ignoring unchallenged evidence that over 500 citizens had been injured in truancy hearings;

- dismissed RICO claims without discovery or a hearing, despite evidence that county staff and officials received funds extorted from citizens;

- granted absolute quasi-judicial and qualified immunity to court staff who gave perjured statements to official investigators in order to justify Justice of the Peace's arrest of Petitioner Hennessey on grounds of direct contempt;

- refused to allow joinder of Petitioner Vegas whose rights were similarly violated;

- refused to disqualify presiding judge whose brother served on the board of trustees of the school district that had brought the truancy complaints.

(c) Also deciding important questions of federal law which have not been, but should be, settled by the Supreme Court and other questions in a way that conflict with decisions of the Supreme Court, the judgment:

- dismissed RICO claim on grounds of lack of economic injury;

- dismissed the complaint of suborning of perjury -- holding that this was harmless "coaching" of witnesses, an entirely new legal concept at odds with the entire body of legal opinion, as well as Federal and state statuute

held that a special investigator and his assistant were immune from liability for refusal to investigate on grounds of prosecutorial immunity.

III. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioners' claims are based on the following, the texts of which are reproduced in the Appendix:

A. Constitutional provisions

1. Amendments to the United States Constitution: Articles IV, V, VI, VIII, XIV(1)

2. Constitution of the State of Texas (extracts in Appendix)

B. Statutory Provisions

1. Federal laws and regulations

Racketeer Influenced and Corrupt Organizations Act 18 U.S.C. § 1981-5
Fair Debt Collection Practices Act 15 U.S.C. §1692
Judiciary and Judicial Procedure 28 U.S.C. §144,455(b)(5),1291-4
Federal Rules of Civil Procedure Rules 8, 18, 23, 26, 33,36,37,41,56,57,62
Hobbs Act U.S.C.A. Title 18 §1951
28 U.S.C. §1291
U.S.C.A. 18 §241

2. State laws

Texas Education Code §4.25: Violation of Compulsory Attendance
Texas Government Code Title 61 Article 3908
Texas Penal Code Title 8 Chapter 37
Texas Penal Code Title 18 Article 1510

IV. STATEMENT OF THE CASE

This Petition respectfully requests the Supreme Court to issue a writ of certiorari in order to review decisions of the Lubbock Court of the Northern District of Texas, affirmed by the Fifth Circuit Court of Appeals, in hearing Petitioners' complaint 5:93-CV-78 [Doc1:Pp1-101] filed April 7, 1993 against former Lubbock County Justice of the Peace L. J. Blalack and other state actors who collaborated with, protected and facilitated a longstanding policy and practice of violation of civil and constitutional rights, particularly of Hispanics and blacks. These decisions involved the following: denial of motions to compel discovery, denial of motion for joinder of Petitioner Linda Ann Vega , denial of motion for certification of the action as a class action, granting qualified and absolute immunity to defendants, dismissal of RICO claims without discovery or a hearing, all of which were affirmed by the opinion of the Fifth Circuit Court of Appeals on August 30, 1994 for Consolidated Appeals 93-1808 et al.. Petitioners also request the Supreme Court to review the Fifth Circuit's holding in their opinion that instruction of his staff to prepare, execute, swear and notarize statements known to be false--suborning of perjury--by Justice of the Peace Blalack was harmless "coaching" of witnesses.

Petitioners' complaint arises from harm inflicted upon citizens by an alleged corrupt conspiracy among elected and appointed officials in Lubbock County in the State of Texas.

1. In 1986 Lubbock County Court ordered Blalack to provide jury trials. In Quintero v Blalack County Judge Mackey Hancock, on November 1, 1986, issued an injunction requiring Justice of the Peace L. J. Blalack to provide a jury trial in all civil cases on request and payment of jury fees. At this point, Lubbock County officials can be shown to have been put on notice about Blalack's practice of violation of the rights of citizens in his court.

2. In 1987, Orville Wilmington was arrested for failure to pay a $60 fine on the spot. On February 12, 1986, Orville Wilmington received a citation for failure to display a state inspection sticker on his windshield; he had just had his windshield replaced that morning. When he went to Blalack's court, he was fined $60; he had $58 in his pocket, which he offered in payment;

Blalack's clerk refused this partial payment and summoned the bailiff to take Wilmington to jail, where he remained in custody for four hours. Wilmington filed a complaint with the Texas Judicial Conduct Commission, which dismissed his complaint because he "had never been arrested" despite Wilmington's submission with his complaint to the Commission of copies of his arrest documents, along with a receipt from the Lubbock County jail for his personal effects including the $58 he had offered in payment of his fine.

3. Linda Ann Vega and her family were abused, excessively fined, and arrested. On January 3, 1990, Petitioner to Join Linda Ann Vega, Ernest Vega and Jennifer Vega were summoned to appear before L. J. Blalack on a Violation of Compulsory Attendance complaint filed by Colene Fielding, Attendance Officer for Lubbock Independent School District. They were not allowed to speak in their own defense; they were fined $352--the maximum fine for a single complaint on first offence was $25. When they informed Melissa Martin they were unable to pay this excessive fine on the spot, Ms Martin summoned the Bailiff to take Linda Vega into custody. Linda Ann Vega requested the assistance of several Lubbock County officials, all of whom refused; the bailiff, who knew Ms Vega, took the Vegas back into Blalack's court--where they were abused and held for more than five hours. After they were released, Blalack reduced the fine to $250; the case was dismissed upon subsequent appeal to County Court [Doc84:Pp628-677].

4. Gerard Hennessey was denied access to records, abused, and arrested. On April 9, 1991, Plaintiff Gerard Hennessey went to the office of former Lubbock County Precinct 1 Justice of the Peace Defendant L. J. Blalack's and requested records of former Justice of the Peace Bill Ross related to Suter v Hennessey in preparation for a mediation meeting the following week. Because Defendant David Nelson, attorney for Suter, had previously attempted to prevent Ross' staff from giving Plaintiff Hennessey access to records on other Suter cases, Plaintiff Hennessey carried a tape recorder in case Nelson again attempted to prevent access to the records.

Upon requesting access to the Suter case records, from Blalock's office staff Hennessey was loudly and publicly abused by Defendant Melissa Martin, who directed him to speak to Blalack in

court; this incident was recorded on tape, and a transcript subsequently verified by Texas Ranger Jim Mull was included with the Original Complaint. As Hennessey went into Blalack's court, Melissa Martin telephoned Bailiff Jay Helton to "come and arrest someone".

After Hennessey had been sitting in court waiting to ask Blalack for access to the Suter case records for more than 15 minutes, Blalack called Lubbock Avalanche Journal reporter Mike Erickson-- who was sitting next to Hennessey--to the bench, publicly abused and threatened him. When Melissa Martin indicated to Blalack that he had the wrong person, he let Erickson go. He then told Helton not to let Hennessey leave the court: at that point, Hennessey was deprived of his liberty. Blalack then called Hennessey to the bench, publicly abused him, did not allow him to speak, and ordered Helton to take him to jail. As Hennessey and Helton were leaving the court, Blalack called them back, and asked Hennessey to apologize. At that point, for the first time, Hennessey was allowed to speak; he explained he had done nothing. When Melissa Martin, who was still standing in the doorway to the court office, affirmed that Hennessey had not gone past the counter barrier in the office, he ordered Hennessey released and asked him what he wanted. At that point, in fear for his personal safety, Hennessey asked only for the settlement figure for Suter v Edwards. Blalack gave him an inaccurate figure--which Hennessey did not question--and then allowed Hennessey to go.

On the following day, attorney Sam Ogan accompanied by Hennessey went back to Blalack's office to request access to the Suter case files. Ogan was also refused access to the files and was told he could have copies of specific items in the files for $2 a page. Blalack told Ogan that Hennessey's arrest had been a misunderstanding with his staff, and that he had fixed it. Neither Hennessey nor Ogan was permitted access to the Suter case records until after Blalack was removed from office. The Suter case files contained documents that showed Nelson, Suter's attorney, had violated the Federal Fair Debt Collection Practices Act--a federal offense. A critical document, the original complaint for Suter v Edwards, to which Nelson's illegal collection letter was attached, is missing from the file.

Had the District Court allowed discovery, Petitioners would

have been able to submit to the Court evidence of a possible reason for the unprovoked extreme reaction by Melissa Martin and L. J. Blalack: J. David Nelson, his wife and his law partner, were the principal contributors to Blalack's 1988 election campaign fund.

5. Gerard Hennessey was denied assistance by Lubbock County's chief administrative officer Don McBeath, who was at the time receiving regular bonus payments from fines and fees produced by Blalack's court. Plaintiff Hennessey sought the assistance of Defendant Don McBeath in his official capacity as County Judge; McBeath apologized but refused to take any action to assist Plaintiff Hennessey. Lubbock County financial records show that in 1991 Defendant Don McBeath received $2,800 from the Lubbock County bonus fund [Doc98:Pp806-808] that was obtained from excessive fees and fines on "hot check" charges largely imposed and collected by Defendant Blalack. At that time, Defendant Blalack heard almost all Lubbock County "hot check" [Doc52:P380], all truancy [Doc52:P375; Doc84:Pp638-639] as well as other misdemeanor cases, with a practice of imposing excessive fines and fees [Doc52:P380; Doc52:P382]. Although Lubbock County officials were obviously aware of this, no action was taken by its chief administrative officer County Judge Don McBeath to assist citizens to obtain the quadruple fees due them from Blalack under Title 61 Article 3908 of the Texas Government Code:

Blalack's court was the only one Lubbock County authorized to pay overtime to its staff in 1991, totalling $19,107 [Doc 52:P380].

6. L. J. Blalack instructed Melissa Martin to have his staff prepare, execute, and swear false statements in order to prevent action by the Judicial Conduct Commission. After Plaintiff Hennessey left his courtroom on April 9, 1991, Defendant Blalack instructed Defendant Melissa Martin to obtain written statements from members of his staff who were present during the incident, including Julie Martin, Rose Marie Chivers, Lyn Duval, Diana Holloman, and Tami Pisarski. Blalack instructed them to falsely state that they would have given Plaintiff Hennessey the records he requested if they had been available, and that Plaintiff Hennessey had been loud and abusive in Blalack's office and court. Each of the above staff members, including Melissa Martin, prepared, executed, and swore these false statements to help Blalack respond to any complaint Hennessey might make to the Texas Judicial

Conduct Commission. The purpose of these acts of perjury and suborning of perjury was to facilitate an adjudication of direct contempt rather than constructive contempt, for which Blalack had not provided due process. These acts were carried out with the express intent of obstructing an official investigation of the State of Texas. Except for her own statement and that of Lyn Duval, Melissa Martin then notarized all the statements [Doc1: Pp34-47], knowing them to be false [Doc1:Pp58-71].

7. On the same day, Melissa Martin made a false statement and L. J. Blalack issued an arrest warrant and peace bond against Martin's neighbor R. B. Adamson. Also on April 9, 1991, Melissa Martin prepared and executed--and L. J. Blalack notarized--a statement about her neighbor R. B. Adamson in which she claimed without any evidence that she believed he had entered her home and stolen some women's shoes. Adamson had recently ordered a friend of Martin's to remove cattle that were grazing without permission on his property. Blalack issued a warrant for Adamson's arrest and required him to take out two peace bonds in a week. An old-age pensioner, Adamson was released from jail after midnight in cold weather with only a shirt with no way to get to his home in New Deal. After paying for the peace bonds and the attorney's fees, Adamson was unable to maintain payments on his property, which he then sold for a loss shortly afterward. He now has no home.

8. Without records from Ross' court, Gerard Hennessey agrees to reduced settlement in Suter case. During the mediation meeting re Suter v Hennessey on April 14, 1991, Plaintiff Hennessey was induced to settle for a much smaller amount ($500) [Doc16:Pp129-135] than he had claimed ($20,000) because he did not have the necessary records to show that Suter's attorney Defendant J. David Nelson had been acting as a debt collector, and had violated the Federal Fair Debt Collection Practices Act by sending an illegal collection letter [Doc1:P30]

9. In 1991 Gerard Hennessey, Linda Ann Vega, R. B. Adamson and 9 other Lubbock citizens filed complaints with Texas Judicial Conduct Commission, which dismissed their complaints without investigation. The first serious complaint about Defendant Blalack known to Plaintiffs was filed with the Judicial Conduct

Commission in 1987 by Orville Wilmington, which Robert Flowers dismissed on the grounds that Wilmington had not in fact been arrested--although Wilmington provided copies of all his arrest documents to the Commission [Doc98:Pp794-799]. During 1991 Petitioners Hennessey, Linda Ann Vega, R. B. Adamson and 9 other Lubbock citizens filed complaints against Blalack to the Texas Judicial Conduct Commission. Robert Flowers, Chief TJCC Executive Officer, stated in a tape recorded telephone conversation that so many complaints had been filed that one of his staff was called the "Blalack Division" [Doc142: Pp1058-1074]. Flowers visited Lubbock in September 1991 for one day to investigate the complaints; he interviewed Defendant McBeath, Criminal District Attorney Travis Ware, Attorney Sam Ogan and Justice of the Peace Jim Hansen, had lunch with Defendant Blalack and his attorney Bill Wischkaemper, and departed. Flowers never examined Blalack's court records, interviewed or contacted any other complainants except for one hasty telephone call. In active obstruction of the State of Texas Judicial Conduct Commission investigation, Blalack supplied Defendant Flowers with the false statements about the incident involving Plaintiff Hennessey that he had instructed his staff to prepare and swear in April 1991. In October 1991, Plaintiff Hennessey sent Defendant Flowers a transcript and copy of the tape recording of the April 9, 1991 incident. On December 20 Robert Flowers sent a letter to Blalack, giving him the names of the complainants despite assurances by the Commission that complaints would be held in confidence. On Robert Flowers' recommendation and lacking adequate information, the Commission dismissed all twelve complaints in December 1991 [Doc1:P79]; Blalack started his re-election campaign in January 1992.

10. Lubbock County Juvenile Chief Sunny Ratliff outlines correct truancy procedures to JPs. LISD officials met with Defendant Blalack in 1987 and, in knowing violation of Texas Education Act §4.25 which specifies that truancy cases must be heard in the court with jurisdiction of the parent's residence, agreed with Defendant Blalack to bring all truancy cases in his court regardless of the residence of the parents of the truant child [Doc8:Pp638-639]. In 1989 all school authorities were put on notice about jurisdiction when a revision to §4.25 came into effect, extending jurisdiction to the location of the truant child's school. - On October 16, 1991 Lubbock County Juvenile Chief Sunny Ratliff

issued a Memorandum to all Justices of the Peace, outlining the correct procedures for truancy cases [Doc84:Pp640-641]. In it, she made particular reference to jurisdiction, to specific defenses that must be allowed, to procedures necessary before a valid truancy complaint could be filed, and to the limits for fines.

11. Carlos Leal declared candidacy for Blalack's office on Friday, was served on Sunday with summonses to appear in two JP Courts for truancy and a "hot check" already paid; media were called to witness his arrest at the JP courts. On January 10, 1992, Carlos Leal Sr. declared his candidacy for the primary election to Defendant Blalack's office. On Sunday, January 12, he was served with a summons on an old paid-up "hot check" charge and truancy summonses by two Lubbock County Justices of the Peace. The truancy concerning Leal's son was filed late January 10 by Colene Fielding, having added the Leal case to those she had already submitted to Blalack's court more than a week previously. LISD officials took custody of Leal's son in his school classroom, and brought him to Blalack's court, where both Leal and his son were publicly abused and humiliated in front of the media who had been called for this purpose. Justice of the Peace Grady Brooke ordered Leal arrested for not appearing on the the "hot check" charge, although he had already paid the charges involved twice. Leal filed a Federal Civil Rights complaint against, among others, Defendants Blalack and Colene Fielding, the LISD truancy officer who filed the truancy charge on the same day that Leal declared himself a candidate for Blalack's office. Judge Sam Cummings was assigned as presiding judge, and administered the case until August 7, when he recused himself.

12. LISD changed truancy procedures, Trustee deLeon expressed concern about truancy abuses by Blalack. In January 1992 Plaintiff's wife and Petitioner to Join Vega brought irregularities about jurisdiction in LISD truancy cases and complaints about overfining, arrests and public abuse inflicted upon mainly Hispanic parents and children in Blalack's court to the attention of LISD Trustee Linda deLeon. As a result, LISD announced that, for the first time since 1987, truancy cases would be brought in the precinct of the residence of the parents or of the school. In announcing the changes, Trustee deLeon expressed concern about abuse of her constituents in Blalack's court

[Doc52:P375].

13. Lubbock County auditor announced evidence of overfining by Blalack; McBeath refused to act. On January 23, 1992 the Lubbock County Auditor announced he had examined a small portion of Blalack's records and had found many instances of overfining for a variety of cases including alcohol and traffic violations. Lubbock County Judge Don McBeath refused to take any action to assist citizens against whom the excessive fines were imposed, or to order a more comprehensive examination of the records [Doc52: P387] which, as holder of Blalack's $5,000 bond on behalf of Lubbock County, McBeath had an obligation to pursue under §27.001 of the Texas Local Government Code.

14. Judicial Conduct Commission was asked to reconsider complaints against Blalack. Also in January 1992 several complainants in addition to Gerard Hennessey and Linda Ann Vega requested Defendant Flowers to reconsider their complaints [Doc52:P376]; their requests were denied in April 1992, shortly before Blalack was defeated in the primary elections..

15. Hennessey and Vega filed Ex Rel Petition for removal of Blalack from office. On January 30, 1992, a month after their original complaints to the Judicial Conduct Commission were dismissed, Plaintiff Gerard Hennessey and Petitioner to Join Linda Ann Vega filed in the 364th Texas District Court their Ex Rel Petition for Immediate Suspension and Removal of L. J. Blalack from office on grounds of his Official Misconduct and Official Oppression. The presiding judge, who recused himself, was replaced by Judge Quay Parker.

16. Neal and Greathouse, special prosecutor and investigator, refuse to proceed with investigation of Ex Rel case. Judge Quay Parker appointed John Neal as Special Prosecutor after Lubbock Criminal District Attorney Travis Ware recused himself; Neal, who executed his oath as special prosecutor on February 25, 1992 [Doc107:P859], employed Doug Greathouse as his investigator. On March 24 and 25, 1992, after delay Neal claimed was caused by Defendant McBeath's original refusal to reimburse their expenses, Neal and Greathouse came to Lubbock to investigate the case. They took statements from Gerard Hennessey and Linda

Ann Vega, Bailiffs Jay Helton and Arthur Hetler, and Avalanche Journal reporter Mike Erickson. They contacted Ware and interviewed J. Blalack, who thereby intentionally obstructed another official State of Texas investigation by providing them with copies of the false statements Blalack's staff had prepared and sworn on his instructions about the April 9, 1991 incident with Gerard Hennessey. These statements were made by Melissa Martin, Julie Martin, Tami Pisarski, Rosemarie Chivers, Diana Holloman, and Lyn Duval. Relying in part on these statements and failing to examine Blalack's court records, in May 1992 Defendants Neal and Greathouse met with Hennessey and Vega to inform them that the case would not be prosecuted further for lack of evidence of wrongdoing by Blalack.

They refused to inspect Blalack's records, to interview other injured parties, and to contact the Judicial Conduct Commission about other complaints against Blalack. Both Hennessey and Vega [Doc107:P860-3] wrote to Neal, protesting his refusal to proceed with the investigation on their behalf. Had Neal or Greathouse spent only one hour examining Blalack's court records, they could not have missed the extensive evidence of Blalack's official misconduct and violation of civil rights that both Blalack's successor Tom Head and Mark Welbourn quickly and easily found in 1993.

On July 24, 1992, Defendants Neal and Greathouse provided Plaintiffs Hennessey and Vega with copies of the affidavits they had obtained from Jay Helton, Arthur Hetler, Mike Erickson, along with the statements made by Melissa Martin, Julie Martin, Tami Pisarski, Rose Marie Chivers, Diana Holloman, Lyn Duval about the April 9, 1991 incident, as well as a copy of Melissa Martin's false sworn statement of July 1992, notarized by Patsy Summers, [Doc1:P48].

14. Gerard Hennessey's wife and Linda Ann Vega met with LISD trustee Linda deLeon and superintendent Mike Moses about truancy abuses. In August 1992 Petitioner to Join Linda Ann Vega, accompanied by Plaintiff Henne ey' wife, met with LI D Superintendent Mike Moses and School Board Trustee Linda deLeon about Defendant Blalack's abuse of parents and children brought into his court as a result of LISD truancy complaints. Dr. Hennessey indicated to Dr. Moses that as a teacher, Colene Fielding has an obligation to protect children from the abuses she had witnessed in Blalack's court on a regular basis.

15. Hennessey contacted Flowers and Neal again about Blalack's misconduct; Blalack was forced to resign. In August 1992, Gerard Hennessey again wrote to Defendant Flowers as well as to Defendant Neal, providing more evidence of Blalack's misconduct--this time, personal use of County stationery and postage [Doc52:P388]. In September 1992, after contact from Robert Flowers, Blalack resigned from the bench [Doc52:P379]. In October Flowers advised Hennessey and Vega that their complaints had again been dismissed by the Commission because Blalack had resigned from office [Doc1:P85].

16. Blalack and Melissa Martin indicted by Grand Jury for perjury, official oppression, and official misconduct. In August 1992, District Attorney Travis Ware announced that L. J. Blalack's personal use of government property, the subject of several local newspaper articles, would be investigated. In December 1992 Special Prosecutor Terry McEachern presented evidence regarding this matter and testimony by Hennessey and Vega to the Lubbock County Grand Jury. In an effort to obstruct a third official investigation by the State of Texas, Blalack testified to the Lubbock County Grand Jury on December 6, 1992, that the statements made by Blalack's staff on April 9, 1991 were true. The jury was held over; its members testified to the next Grand Jury on January 8, 1992, when Defendant Blalack was indicted for official oppression of Hennessey and Vega, for aggravated perjury to the December grand jury, and for official misconduct regarding personal use of government property [Doc1: Pp43-46]. In addition, Melissa Martin was indicted for perjury for her original statement made on April 9, 1991 about Hennessey [Doc1:P42]. As of December 16, 1994, none of the charges against Blalack have been heard by any Lubbock County Court.

17. At the same time Linda Ann Vega was testifying to the Grand Jury, her daughter--an epileptic--was given severe corporal punishment by an LISD school principal. Also on January 8, 1993, at exactly the time when Petitioner to Join Linda Ann Vega was testifying to the Grand Jury about Defendant Blalack's misconduct, her daughter Stefanie--an epileptic--was severely paddled by Principal Booe, ostensibly for an infraction committed in the middle of December 1992. Petitioner Vega had received

extensive media coverage during the entire week; over the previous year, she had repeatedly and clearly stated the nature of her complaint against Blalack and Colene Fielding in television interviews.

18. Gerard Hennessey filed Federal Civil Rights conspiracy complaint under RICO. On April 7, 1993--more than three months after the indictment of Blalack by the Lubbock County Grand Jury, and almost two years after the abuse, incident when Blalack still had not been arrested or arraigned by Lubbock County officials, Plaintiff Hennessey filed the current Complaint against Defendant Blalack et al. on grounds of civil rights violations, conspiracy and RICO violations. Because Linda Ann Vega did not believe her daughter would be safe attending an LISD school if she proceeded with action against Blalack and LISD, she did not file as an original co-Plaintiff in the Action. She considered not only the excessively bruising and dangerous--in view of Stefanie's epilepsy--corporal punishment inflicted upon Stefanie by Principal Booe, but also the taking into custody of Carlos Leal's son by LISD officials without Leal's knowledge or consent. Hennessey made reference to her case in the Original Complaint [Doc1:Pp4-5; Doc1:Pp26-7; Doc81:Pp87-91,93].

19. Welbourn examined Blalack's records and reported evidence of excessive fines, false imprisonment and other long-term abuses on a extensive scale over at least four years. By July 1993, Mark Welbourn, whom Hennessey had employed to examine Blalack's court records, reported that at least 500 other Lubbock citizens had been overfined, arrested for failure to pay excessive truancy fines on the day, and otherwise abused by Blalack. Welbourn found that most of the truancy actions were filed against Hispanic families[T269].

20. Criminal actions against Blalack and Melissa Martin are pending after more than 24 months. State of Texas prosecution of L. J. Blalack for felony perjury to the Lubbock County grand jury on December 7, 1992, regarding the false statements about Gerard Hennessey that he had instructed his staff to prepare in April 1991 [Doc1:Pp42-7], as well as misdemeanor charges for official

misconduct with regard to personal use of government property, and official oppression of Gerard Hennessey and Linda Ann Vega, is in progress; no hearing date has yet been set. Two assault charges against Melissa Martin from 1989 have never been presented in Lubbock County courts.

V. HOW THE ISSUES WERE RAISED BELOW

Petitioners' complaint filed in the Northern District of Texas Lubbock District Court on April 7, 1993 as 5:93-CV-078-78-C [Document 1: Pages 1-101] arises from an alleged longstanding corrupt conspiracy among elected and appointed officials in Lubbock County in the State of Texas. Petitioners claim that L. J. Blalack, Justice of the Peace for Lubbock County Precinct 1, operated as kingpin and central state actor of the conspiracy, and that over a period of at least six years, Blalack systematically extorted excessive fines and fees from Lubbock citizens, abused them, threatened and imprisoned them for inability to pay these fines and fees on the same day; a major source of extortionate revenue was excessive (up to $18,000)[T268] fines and fees imposed on uneducated unrepresented poor minority citizens who came before Blalack under Texas Education Code §4.25: Violation of Compulsory Attendance (truancy), for issuance of "bad checks", for traffic violations and for other Class C Misdemeanors such as Minor in Possession of Alcohol, and Failure to Display Automobile Inspection Certificate. None of these offenses is a jailable offense; all decisions of a Texas Justice of the Peace are immediately appealable to the County Court.

Petitioners also alleged that Blalack, his staff, and other Lubbock County officials protected the conspiracy by denying citizens, attorneys and members of the press access to court records, and by a practice of preparing, executing, swearing and notarizing false statements concocted to justify unlawful conduct and violation of civil rights. They submitted evidence to show that Lubbock County employees helped to collect these extorted funds, placed them in County accounts, and received personal bonuses and overtime payments from these accounts. They provided documents showing that numerous attempts by Lubbock citizens, attorneys, other judges, and members of the press over at least six years to

bring Blalack's corrupt violation of civil and constitutional rights under control were met with flat refusals to investigate and dismissals of legitimate complaints without investigation by state officials Special Prosecutor John Neal, his Investigator Doug Greathouse, and particularly by Texas Judicial Conduct Commission Chief Executive Officer Robert Flowers who had received, refused to investigate, and dismissed at least two dozen serious complaints about L. J. Blalack's conduct in the years 1986 to 1992.

1. Indictment of L. J. Blalack and Melissa Martin. On January 8, 1993, the Lubbock County Grand Jury indicted Defendant Blalack on two counts of official oppression (one count on the public abuse and unlawful arrest of Gerard Hennessey on April 9, 1991 and one count on the public abuse and unlawful arrest of Linda Ann Vega and her family on January 3, 1990), one count of perjury (based on Blalack's sworn testimony to the December 1992 Grand Jury claiming that Plaintiff Hennessey's conduct had merited arrest for contempt during the April 9, 1991 incident involving abuse and arrest of Plaintiff Hennessey--who had come to his court to obtain another judge's records), and one count of official misconduct (for personal use of government property). The Grand Jury also indicted Defendant Melissa Martin on one count of perjury (for preparing and swearing a false statement about the April 9, 1991 incident and for notarizing other statements she knew to be false) [Doc1:Pp93-97]. By the first week in April 1993, Blalack had neither been arrested nor arraigned by Lubbock County officials.

2. Original Federal Civil Rights complaint and service. On April 7, 1993, Plaintiff Gerard Hennessey filed his Original Complaint against Defendant L. J. Blalack and others, claiming damages under 42§1981-3 for tortious public humiliation by a public employee, false imprisonment, denial of access to public records, denial of due process, denial of equal protection under the law; he demanded costs and treble damages under RICO on grounds of a corrupt conspiracy to violate civil rights of Plaintiff and others. The action was filed against L. J. Blalack, J. David Nelson, John Neal, Doug Greathouse, Robert Flowers, Melissa Martin, Julie Martin, Patsy Summers, Rose Marie Chivers, Lyn Duval, and Diana Holloman [Doc1:Pp1-101].

3. Responses to the Complaint. The chronology and nature of responses to the Original Complaint are listed in the Appendix.

4. Settlement Conference. On August 12, 1993, the Court issued its Scheduling Order [Doc75:Pp514-5] requiring parties to meet to discuss settlement of the Action, in response to which Plaintiff Gerard Hennessey accompanied by his wife, met with Defendant Blalack accompanied by his wife, and Defendants' Counsel Ratliff, Thompson and Gresham, Gorsuch, Jones, Thompson, Joanne Bernal; excluded by objection of parties were Stanley Kaster, Linda Ann Vega, Mark Welbourn, and Ratliff's law clerk. Contrary to specific instructions in the Court's order, no Defendants other than Blalack attended this meeting. Plaintiff included this informaton in his Report on the Conference filed August 25, 1993 [Doc91:P766-7]; the Court took no action on this failure to follow its orders.

5. Application for Certification of Action as a Class Action. Plaintiff obtained a copy of an LISD memorandum stating that in 1987 L. J. Blalack had met with LISD officials and agreed with them to hear all Lubbock truancy cases [Doc84:Pp638-9] in knowing violation of jurisdiction based on parent's residence requirement stipulated in Texas Education Statute §4.25 [Doc52: P373]. From a report from Mark Welbourn [Doc84:Pp642-677], who was employed by Plaintiff to examine Defendant Blalack's records, Plaintiff Hennessey became aware of the longstanding and pervasive nature of Defendant Blalack's misconduct and violation of U.S. and Texas Constitutional protections against lack of jurisdiction and excessive fines, as well as the extent of the financial interests of Lubbock County and Lubbock Independent School District officials in LISD truancy cases.

Because many of the persons injured in the process of these truancy cases had been subjected to the same abuses inflicted upon Plaintiff Hennessey (unlawful arrest, public abuse and denial of due process), and because the total amount of money involved in excessive fines and fees was obviously very large--possibly in excess of $1 million over five years--Plaintiff filed a Motion for Certification of the Action as a Class Action [Doc50:Pp353-360;

Doc51:Pp361-370; Doc52:Pp371-394]. Mindful that the risk to the interests of other injured parties from res judicata could be increased by Plaintiffs' lack of legal expertise to pursue their interests adequately, Plaintiff Hennessey and Petitioner to Join Vega obtained an agreement from attorney Val Varley to represent them provided a 60-day continuance could be obtained. On July 26, Defendant Melissa Martin filed her Response in Opposition to Certification as a Class Action [Doc59:Pp427-434]; on July 27, Defendant L. J. Blalack filed his response [Doc62:Pp441-463]. On August 12, Class Action Certification was denied [Doc73:P512]. On August 19, Plaintiff and Petitioner to Join Linda Ann Vega re-filed their Motion for Certification [Doc83:P616] which the Court denied on September 12 or 13 (filing dates differ on Plaintiff's copy and the official court copy) with instructions not to file another application for class action certification [Doc114: Pp883-4].

6. Motion of Linda Ann Vega for Joinder. Meanwhile, on August 13, 1993, two days after her daughter Stefanie's marriage, Linda Ann Vega filed her Motion to Join herself to the Action as co-Plaintiff and LISD truancy officer Colene Fielding as co-Defendant [Doc77:Pp517-525; Doc78:Pp526]. She filed medical reports and other evidence that Stefanie--an epileptic--had been severely paddled by her school principal at exactly the time Linda Vega was testifying against Defendants Blalack and Colene Fielding and about LISD truancy cases to the Grand Jury [Doc82:P574-5], to explain why she had not been an original co-plaintiff in the Action. On September 13, the Court denied her Motion for Joinder [Doc112:Pp880-2].

7. Discovery.

a. L. J. Blalack. On June 16, 1993, Defendant L. J. Blalack served his First set of Interrogatories and Requests for Documents on Plaintiff Gerard Hennessey [Doc105:Pp830-846], to which Plaintiff responded in part with regard to matters that covered the pending issue of certification of the action as a class action--as directed in Local Rule 10(c)--and on August 30 and applied for a protective order on September 13 [Doc90:Pp779] on his work product and for items that were available in Blalack's own court records and in Lubbock County records; Plaintiff objected to having to provide these items to Defendant due to the expense and burden

involved, particularly as Defendant Blalack had previously denied Plaintiff access to court records of Bill Ross [Doc1:Pp31-32]. On October 21, the District Court filed an Order Compelling Plaintiff to Comply with Blalack's discovery requests [Doc164:P1286], which Plaintiff did within 10 days.

On July 27, 1993, Plaintiff Hennessey served his First Set of Requests for Production and First Set of Interrogatories on Defendant Blalack [Doc156:Pp1181-1208]. On August 24, 1993, Defendant Blalack filed his Objections to discovery and applied for a Protective Order [Doc90:Pp756-765]. On October 12 Plaintiff filed his Motion for Admission as True all unanswered Requests for Admission and Motion to Compel Discovery [Doc156:Pp1171-1229], which was denied on November 2 [Doc177:P1342]. On March 22, 1994, Petitioners' complaint against L. J. Blalack was dismissed by granting his Motion for Summary Judgment [Doc158,Doc224].

b. Robert Flowers. On July 16, 1993, Plaintiff Hennessey served Defendant Flowers with a Request for Production of Documents and First Set of Interrogatories [Doc80:Pp544-555] to which Flowers objected on the grounds of qualified good faith immunity, and applied to the Court for a protective order [Doc80:Pp538-542], to which Plaintiff objected on September 1 [Doc98:P789]. On September 17th the Court dismissed the complaint against Robert Flowers [Doc125:P956] and on the same day the Court ruled his motion for protective order moot [Doc 126:P958].

c. Patsy Summers, Julie Martin, John Neal, Doug Greathouse, Rose Marie Chivers, Don McBeath and Lubbock County. On August 16, 1993, Plaintiff served the First Set of Requests for Production and First set of Interrogatories upon Defendants John Neal and Doug Greathouse [Doc85:Pp686-715] and upon Defendant Don McBeath [Doc86:716-731]. On August 20 the above defendants filed their Motion for Protection and Motion to Stay Discovery [Doc85:P678-680; Doc86:Pp681-685]. On August 25, the Court granted the Motion to Dismiss for Julie Martin and Patsy Summers [Doc93:Pp770-772], severing the complaint to 5:93-CV-221-C [Doc94:P773] and was appealed by Plaintiff on September 7 [Doc99: P800]. On September 17

discovery was ruled moot [Doc113:P881]. On August 26, the Court granted the Motion to Dismiss for Don McBeath and Lubbock County [Doc95:Pp774-5]; on September 17 discovery was ruled moot [Doc113:P881-2]. On August 30, the Court granted the Motion to Dismiss for John Neal and Doug Greathouse [Doc96:Pp777-778] and severed into 5:93-CV-226-C [Doc96:P779] on which final judgment was given.

Defendants John Neal, Doug Greathouse, Julie Martin and Patsy Summers have never filed an Answer to the Original Complaint, nor have anyone but John Neal among them submitted an affidavit to refute the complaints against them. The District Court denied all discovery requests. It also dismissed complaints against all parties, with the exception of Don McBeath and Lubbock County. This effectively prevented Petitioners from proceeding with the action on the basis of conspiracy, because all of the co-conspirators have been dismissed from the case without discovery or presentation of evidence to a trier of fact. On February 21, 1994, the District Court repealed its Local Rule 10(c) requiring discovery in class actions to proceed only as to class action issues preventing discovery on the merits until certification. Because this materially affected the outcome of this case Petitioners requested the Court to direct the District Court to vacate its orders denying discovery and to direct Defendants to participate in discovery on the merits, which the Court denied.

8. Jury awarded $10,000 against McBeath and Lubbock County; their inaction was proximate cause of violation of Petitioner Hennessey's rights.

During the May 9-12 trial, Petitioner Hennessey relied greatly on newspaper clippings, the only form of documentary evidence available to him in most cases due to denial of discovery. Both Justice of the Peace Jim Hansen and Constable Gary Newburn testified that their computer access to Blalack's public court records had been blocked on orders of County Judge Don McBeath.

9. District Court reversed jury verdict without comment. On June 13, 1994, the District Court granted Defendants Don McBeath and Lubbock County's Motion for Judgment as a Matter of Law without comment, awarding them court costs and subsequently denying their application for attorney's fees.

VI REASONS FOR GRANTING THE WRIT

As shown below, the Fifth Circuit Court of Appeals' decision of August 30, 1994, is in conflict with decisions of the Supreme Court, of other Federal Courts of Appeal, of state courts of last resort, and with its own decisions. Petitioners respectfully request the Supreme Court to review the decision.

A. A corrupt civil rights conspiracy

Title 42 §1983 was specifically drafted to provide a basis for compensation of persons for harm caused by deprivation of constitutional rights by persons acting under the color of state laws Carey v Piphus 98 S.Ct. 1042-7; thus there can be no protection for public officials who knowingly, wantonly, and maliciously carry out illegal acts that harm the citizens they have been appointed to serve. Nor is there protection from RICO for public officials whose participation in a conspiracy to deny civil rights is prohibited, such as in U.S.C.A. 18 §241 This includes an official's failure or refusal to act which facilitates, protects, or otherwise furthers the interests of the conspiracy. In U.S. v Garcia 655 F2d 59, U.S. v Cole 704 F2d 554, among a series of similar cases, the courts have consistently held that participation in a conspiracy's common purpose and plan may be inferred from the defendant's actions and reactions to circumstances. Prima facie evidence of existence of a conspiracy and failure to act on the part of a public official places the burden of proof upon him to show that he was not a member of the conspiracy. A New York Southern District Court found in U.S. v Pacciolo 753 Supp 449 (1990) the fact that a defendant allegedly played a lesser role in a conspiracy did not warrant severance.

A co-conspirator is liable for harm done by a conspiracy if found to have carried out at least ONE participatory act in support of the corrupt conspiracy U.S. v Hobson 686 F2d 628. Massey v Farnsworth Civ. App. 353 SW 2d. 262,271 (1961) cited 15A CJS 653 §17: "Conspirators are jointly and severally liable for all damage resulting from the conspiracy, each being responsible for the acts of the other in furthering the common design." Intentional efforts to obstruct an official State of Texas investigation are

prohibited in Texas Penal Code Title 18 §1510. In U.S. v Hubbard 474 F.Supp.64 (1979) perjury charges were found to be relevant to conspiracy to avoid detection. Another instance of possible perjury by Melissa Martin was described by Federal 5th Circuit District Judge Mary Lou Robinson in her Opinion dated March 4, 1993 in re Farmer, Hubbard, and Kelly v. Sherrod, Ware, et al styled as 2:93-CV-0017-J.

B. Dismissal of class action without discovery or hearing.

Although the District Court has the discretion to determine whether a party is the proper representative of a class, this is subject to review Brittains v. General Telephone Co. 533 SW2d 886 (1976). In California Employment Development Department v Superior Court 178 Cal Rptr 612 (1981), the California Supreme Court affirmed that determination of the merits of an action may precede certification of a class. In 1994 the Supreme Court's decision removed the requirement for an economic motive--although one certainly exists in this case--in NOW v Scheidler. The maintenance of a class action will not be precluded by a vague description of the class in the complaint, where the complaint, read as a whole, adequately defines the class; see 6A Fed Proc, LEd, §12:63-65.

In County of Riverside v McLaughlin (US) 111 SCt 1661 (1990), 114 LEd 2d49, the Supreme Court found that a §1983 class action for failure to issue timely warrants for arrest was appropriate and that public officials can be held liable for damages they inflict upon citizens in violation of their civil and constitutional rights: "the County is not immune from systemic challenges such as this class action." The Supreme Court, in the Riverside ruling, even stipulates that in the case in which the original class representative's claim is terminated, "Termination of the class representative's claim does not moot the claims of unnamed members of the class. The County is not immune from systemic challenges, such as this class action." Joinder of Linda Ann Vega to this action is not only appropriate but would also avoid the problems associated with a headless class action described by R. P. Schneider in "Goodman v Schlesinger and the Headless Class Action", Boston University Law Review, Vol 60: Pp367.

The Supreme Court held in Buckley v Fitzsimmons 61 LW

4713 (1993) that prosecutorial immunity does not extend to investigative activity. Texas Judicial Conduct Commission Executive Officer Robert Flowers should be required to participate in discovery and dismissal of the complaint against him should be vacated. Flowers' flat refusals to investigate serious complaints against Blalack may be explained by Norma Kilgore's testimony in the May 9-12 trial [T101-2]: she stated that State Senator John Montford had sent a message to his old colleague Blalack that he would "fix it with the Commission".

An affirmed Texas decision held that 184 class members was sufficient to certify a class action in the Texas case Southwest Water Services Inc. v Cope 531 SW2d 873 (1975) ref. nre. In County of Riverside v McLaughlin (U.S.) 111 S Ct 1661, 114 LEd 2d. 49 (1990), the Supreme Court held that although the claims of the named plaintiffs in a class action under 42 USCS §1983 against a county's alleged failure to issue warrants for arrest were no longer immediate, their merits of controversy could be preserved for review by means of class action certification.

C. Refusal to disqualify presiding judge.

Disqualification of a judge from an action in which he or a person within the third degree of relationship has an interest is not optional, but required by Federal statute as well as established authority in the Fifth Circuit and the Supreme Court.

From May 1992 until February 1994, presiding Judge Sam Cummings' brother James Cummings served on the Board of Trustees of Lubbock Independent School District. Title 28, USC §455(a) and (b)(5)(i) stipulates that a judge shall disqualify himself whenever a person within the third degree of relationship has an interest in the outcome of the action. In Aetna Insurance Co. v Lavoie 475 U.S. 813, 106 S.Ct. 1580 (1986) the Supreme Court even held it improper for a judge to participate in a case that presented the same legal issue as a case in which the judge was a party. In Liljeberg v Health Services Acquisition Corp. 486 U.S. 847, 108 S. Ct. 2194 (1988) the Supreme Court upheld a Fifth Circuit decision reversing an essential use expropriation ruling made in favor of a hospital on whose board the judge served. The Court held that the judge had acted improperly and should have

disqualified himself. Petitioners claim this principle applies equally to those within the judge's third degree of relationship as to the judge himself (§455(b)5(i)), making his disqualification mandatory.

D. Denial of discovery and dismissal of complaints against co-conspirators.

In United States v. Kenny 645 F.2d 1323 (1981) the Supreme Court upheld the Ninth Circuit's finding that "once prima facie evidence of a conspiracy is provided to the Court, evidence of only slight connection is necessary to convict a particular defendant of knowing participation in it." Melissa Martin's sworn statements [Doc161:Pp1271-1273; Doc180: Pp1358-1360] exhibit the type of "insincere" statement that the Court held to be a hallmark of conspiracy. Her criminal trial for perjury in this specific case [Doc1:Pp96] resulted in a plea of nolo contendere.

In Cumins Insurance Society Inc. v South Coast Bank 610 FSupp 193 (1985), the Indiana District Court held that a copy of an FBI investigative file was not privileged where the investigation was already closed. Thus discovery should have been compelled upon Robert Flowers, who was carrying out investigative duties associated with his role as a prosecutor for the State of Texas when he refused to investigate complaints against L. J. Blalack, thereby facilitating the alleged corrupt conspiracy.

In Sheuer v Rhodes 416 U.S. 232 (1974), the Supreme Court held that "1. The Eleventh Amendment does not in some circumstances bar an action for damages against a state official charged with depriving a person of a federal right under color of state law, and the District Court acted prematurely and hence erroneously in dismissing the complaints as it did without affording petitioners any opportunity by subsequent proof to establish their claims. 2. The immunity of officers of the executive branch of a state government for their acts is not absolute but qualified..." The complaints alleged that the defendants acted either outside the scope of office, or in an arbitrary manner, grossly abusing the lawful powers of office.

"The issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the

claims. Indeed it may appear on the face of the pleadings that a recovery is very remote and unlikely but that is not the test. Moreover, it is well established that, in passing on a motion to dismiss, whether on the ground of lack of jurisdiction over the subject matter or for failure to state a cause of action, the allegations of the complaint should be construed favorably to the pleader." The Supreme Court here relies on its ruling in Conley v Gibson 355 U.S.41,45-46 (1957).

Neither motions for dismissal of complaints against Defendants nor for summary judgments in their favor can be granted until they have participated in discovery, a principle clearly established in Poller v Columbia Broadcasting System Inc. 368 U.S. 464, 82 S.Ct. 486 (1962). In National Organization for Women, Inc. v Scheidler (1994), the Supreme Court held that in an action involving RICO claims, discovery must precede dismissal of complaints against alleged conspirators. The Court also held that "Nothing more than the complaint's extortion and injury allegations are needed to confer standing at this (pleading) stage", and that RICO does not require proof that either the racketeering enterprise or the predicate acts of racketeering were motivated by an economic purpose; "it need only be an association in fact that engages in a pattern of racketeering."

In Martin v. D. C. Metropolitan Police Department 812 F.2d 1425 (D.C. 1987) the District of Columbia Court of Appeals held that "summary judgment on the issue of qualified immunity was inappropriate until plaintiff was given opportunity to submit particularized interrogation to officers to ascertain whether there was any evidence to support plaintiff's assertions. In Morrison v Lipscomb 877 F.2d 464, the Sixth Circuit found that a judge who imposed a moratorium on execution of a judgment was not immune from liability for damages because this was an administrative, not a judicial act.

In Scheuer v. Rhodes 416 U.S. 235 (1973) the Supreme Court also held that a §1983 complaint against public officials that alleges they "intentionally, recklesly, willfully and wantonly" caused harm to citizens is entitled to continue proceedings, at least until the evidence has been gathered and submitted to the Court. Some Lubbock County employees claim that only by testifying under

subpoena will they be protected under Title 18§1513 from retaliation by Defendants and others; they cite Federal District Judge Mary Lou Robinson's opinion in Farmer v Ware, which found clear evidence of retaliation by Lubbock City and County officials against employees who testified against Lubbock County pathologist Ralph Erdmann and other County officials corroborated by testimony given in the May 9-12 trial. [T100, T149-61, T316-39].

E. Documents and due process are needed for arrest for constructive contempt; perjured statements of Blalack's staff show direct contempt was only excuse.

In Ex parte Cadena (App. 13 Dist. 1991) 811 S.W.2d 725 a Texas appeal court found that a person may not be imprisoned for contempt without both written order of contempt and written order of commitment; arrest without written commitment made for purpose of enforcing contempt judgment is illegal restraint from which prisoner is entitled to relief. As the necessary documents to justify arrest of Petitioners Hennessey and Vega do not exist, Blalack is liable to them for §1983 damages for false arrest.

F. Immunity cannot be granted for non-judicial acts, taken in bad faith; even with immunity, discovery can be mandated.

In Buckley v Fitzsimmons (1993), the Supreme Court held that prosecutors are not immune from civil liability for acts they perform that are not directly associated with judicial functions, in particular the investigation phase of a prosecution.

The District Court itself found this was not the case, "In fact (Gerard Hennessey) did not appear before Justice of the Peace Blalack as a party to a case in his court." Furthermore, Blalack's suborning of perjury by his staff later that day was clearly not a judicial act, but was rather to facilitate adjudication of Petitioner Hennessey's guilt for direct contempt--which the Fifth Circuit's opinion indicates is an actionable civil rights violation. The 7th Circuit found in Harris v Harvey 605 F2d 330 (1979) that a judge was not entitled to judicial immunity under the Civil Rights Act for defamatory acts allegedly perpetrated outside his courtroom and not part of his judicial function, and that he was nevertheless acting under color of state law when he carried out injurious defamatory

acts that thus made him liable for damages under §1983. The 7th Circuit also found that "the doctrine of judicial immunity does not require the exclusion of judicial acts from evidence, but merely protects a judge from liability for those acts." Thus discovery can and should be compelled.

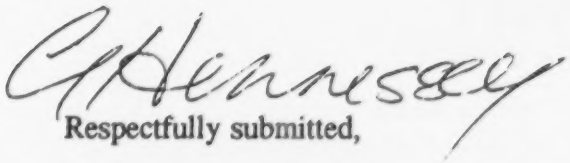
G. The harm done to Petitioners: real and recoverable.

In their 1979 decision in Montgomery Ward & Co. Inc. v Bureau of Labor 600P2d452, 42 OrApp 159, the Oregon Court of Appeals found that damages for humiliation and mental suffering are damages for actual harm, as in Pennsylvania Human Rights Commission v Zamantakis 387A2d70, 478Pa454. In Bryant v McGinnis 463 FSupp 373, non-punitive damages were granted for deprivation of intangible rights for which no pecuniary loss was shown. In Carter v Duncan 727 F2d 1225-6, 234 U.S. App.D.C.126. the Federal Appeals Court also found that humiliation is a cognizable and compensable injury under civil rights statutes.

Petitioners request the Supreme Court to review the Fifth Circuit's holding that Blalack's suborning of perjury by his staff to justify false arrest of Petitioner Hennessey was harmless "coaching".

VII. CONCLUSION

Petitioners respectfully request the Supreme Court to certify for review the opinion of the Fifth Circuit Court of Appeals, on the grounds that conflict with opinions issued by this Court, by other Courts of Appeal, by state courts of last resort, and by themselves warrants review and possible reversal. This is particularly important in view of the excessive and extensive nature of the civil rights abuses complained of by Petitioners.



Respectfully submitted,

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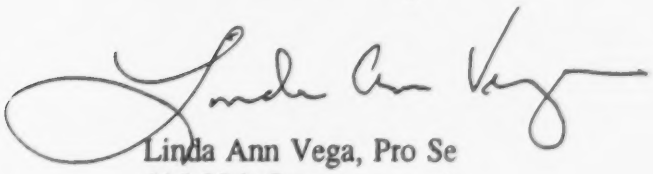

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Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No._____

In the
SUPREME COURT OF THE UNITED STATES
October Term, 1995

GERARD HENNESSEY
and
LINDA ANN VEGA,
Petitioners,

versus

L. J. Blalack, Melissa Martin,
Robert Flowers, Lubbock County,
Rosemary Chivers, Don McBeath,
John Neal, Doug Greathouse,
Julie Martin, Patsy Summers, J. David Nelson et al,
Respondents.

On petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

Appendix to

PETITION FOR WRIT OF CERTIORARI

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Texas Education Code §4.25:
Thwarting Compulsory Attendance Law
Texas Government Code Title 61 Article 3908
Texas Penal Code Title 8 Chapter 37

APPENDIX A

OPINIONS AND ORDERS OF THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

OPINION (August 30, 1994)

No. 93-1808 Summary Calendar
GERARD HENNESSEY, Plaintiff-Appellant,
VERSUS
L.J. BLALACK, ET AL., Defendants
JULIE MARTIN, ET AL., Defendants-Appellees.
Appeals from the United States District Court
for the Northern District of Texas
(5:93-CV-78-C and 5:93-CV-221-C)

No. 93-1809 Summary Calendar
GERARD HENNESSEY, Plaintiff-Appellant,
VERSUS
L.J. BLALACK, ET AL., Defendants,
JOHN NEAL, ET AL., Defendants-Appellees.
Appeals from the United States District Court
for the Northern District of Texas
(5:93-CV-78-C and 5:93-CV-221-C)

No. 93-1835 Summary Calendar
GERARD HENNESSEY, Plaintiff-Appellant,
VERSUS
L.J. BLALACK, ET AL., Defendants-Appellees.
Appeal from the United States District Court
for the Northern District of Texas
(5:93-CV-78-C)

Nos. 93-9009, 93-9010, 93-9011 and 93-9012
Summary Calendar
GERARD HENNESSEY, Plaintiff-Appellant,

LINDA ANN VEGA, Appellant,
VERSUS
L.J. BLALACK, ET AL., Defendants-Appellees.
Appeals from the United States District Court
for the Northern District of Texas
(5:93-CV-78-C)

No. 93-9013 Summary Calendar
GERARD HENNESSEY, Plaintiff-Appellant,
LINDA ANN VEGA, Appellant,
VERSUS
L.J. BLALACK, ET AL., Defendants
ROBERT FLOWERS, Defendant-Appellee.

GERARD HENNESSEY, Plaintiff-Appellant,
VERSUS
ROBERT FLOWERS, Defendant-Appellee.
Appeals from the United States District Court
for the Northern District of Texas
(5:93-CV-78-C & 5:93-CV-240-C)

Nos. 93-9015, 93-9123, and 94-10034
Summary Calendar
GERARD HENNESSEY, Plaintiff-Appellant,
LINDA ANN VEGA, Appellant
VERSUS
L.J. BLALACK, ET AL., Defendants
MELISSA MARTIN, Defendant-Appellee.
Appeals from the United States District Court
for the Northern District of Texas
(5:93-CV-78-C)

No. 93-9092 Summary Calendar
GERARD HENNESSEY, Plaintiff-Appellant,
LINDA ANN VEGA, Appellant,
VERSUS
L.J. BLALACK, ET AL., Defendants

JULIE MARTIN, ET AL., Defendants-Appellees.
Appeal from the United States District Court
for the Northern District of Texas
(5:93-CV-78-C)

No. 94-10035 Summary Calendar
GERARD HENNESSEY, Plaintiff-Appellant,
VERSUS
MELISSA MARTIN, Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
(5:93-CV-0305-C)

No. 93-10370 Summary Calendar
GERARD HENNESSEY, Plaintiff-Appellant,
LINDA ANN VEGA, Appellant,
VERSUS
L.J. BLALACK, ET AL., Defendants,
ROSEMARY CHIVERS, Defendant-Appellee.
GERARD HENNESSEY, Plaintiff-Appellant,
VERSUS
ROSEMARY CHIVERS, Defendant-Appellee.
Appeals from the United States District Court
for the Northern District of Texas
(5:93-CV-78-C & 5:93-CV-330-C)

Before DAVIS, BARKSDALE, and BENAVIDES, Circuit Judges. PER CURIAM:[1]
Gerard Hennessey, pro se, presents a flurry of appeals from

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[1] Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

interlocutory orders.[2] We AFFIRM.

I. Hennessey sought access to complaints filed before Justice of the Peace Blalack by a local attorney (Nelson) on behalf of one of Nelson's clients. According to Hennessey, Melissa Martin, a clerk in Blalack's office, refused him access to the files; she informed him that he would have to ask Judge Blalack for them; Hennessey went to speak to Blalack in the courtroom about the files; and an incident took place, with Blalack instructing the bailiff to arrest him for contempt. Hennessey alleged that Blalack later released him, and instructed his clerks to prepare affidavits stating that Hennessey had been loud and abusive.

Several clerks later gave statements to law enforcement officers in which they stated that Blalack "coached" their affidavits. In connection with the incident, Blalack was indicted for aggravated perjury and false arrest; Martin, for perjury.

Hennessey filed a § 1983 action against Blalack, Martin, Nelson, and others. He alleged, inter alia: that Blalack, Martin, and the other clerks conspired to deprive him of his constitutional rights; that other Lubbock County and Texas officials conspired to prevent successful prosecution of a petition by Hennessey to remove Blalack from office; and that Lubbock County officials were operating a corrupt system whereby excessive fines were funnelled to them in violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §§ 1961-1968 (RICO).

II. The appeals before us are from various interlocutory orders. But, we have jurisdiction, because the litigation has ended.[3] See Riley v. Wooten, 999 F.2d 802, 804-05 (5th Cir.

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2 Hennessey's motion to file his reply brief out of time is GRANTED.

3 After these appeals were filed and briefed, summary judgments were granted Blalack and Nelson. Later, after a jury awarded Hennessey $10,000 against

1993) (once litigation has ended, court possesses jurisdiction to entertain appeals from previously non-final orders) ; Alcorn County, Miss. v. U.S. Interstate Supplies, Inc., 731 F.2d 1160, 1165-66 (5th Cir. 1984) (same).

A. None of Hennessey's assignments of error justifies reversal. The district court properly granted sumary judgment and/or dismissed the claims made against the court clerks: Martin was entitled to quasi-judicial immunity for aiding in Hennessey's arrest (at Judge Blalack's request); she was entitled to qualified immunity for her perjury--no clearly established constitutional right was violated; and the remainder of Hennessey's claims against Martin and the other clerks were properly subject to dismissal for failure to state a claim (injury to reputation alone does not implicate the Fourteenth Amendment; use or encouragement of perjured testimony may violate constitutional rights if committed in an attempt to facilitate an adjudication of guilt, which did not occur by the clerks' efforts to protect Blalack from the judicial inquiry; and Hennessey did not plead purposeful discrimination for his equal protection claim).

The district court also properly refused to allow joinder of Hennessey's claims with that by Linda Ann Vega; her claim concerned alledged excessive fines for citizens whose children were truant. Obviously, that claim bore no relationship to Hennessey's; and, in any event, Vega's claim may well have been time-barred. Nor did the district court err in refusing to certify a class action. Hennessey's claim was atypical because is did not involve either truancy or excessive fines; moreover, the district court did not abuse its discretion in finding that Hennessey, proceeding pro se, could not adequately represent the class.

Because the claims pertaining to the alleged excessive

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another Lubbock County Judge and Lubbock County, the County was granted judgment as a matter of law. Hennessey has also appealed these matters, but those appeals were not consolidated with the appeals before us.

fines for truancy were not before the court, the factual predicate for the RICO claim was absent (Hennessey makes no allegation of injury as to him, which of course must exist to have standing to bring a RICO claim. National Org. for Women, Inc. v. Scheidler, ___U.S. __, 114 S. Ct. 798, 802-03 (1994).)

The claims against Neal and Greenhouse were properly dismissed; any alleged inadequacy in their investigation of Judge Blalack cannot be said to have deprived Hennessey of any constitutioanl right. The same can be said of Hennessey's claim against Robert Flowers, the Executive Director of the State Commission on Judicial Conduct. And, in any event, Hennessey did not plead facts from which a conspiracy could be inferred with respect to Flowers.

Hennessey's remaining assertions fail to raise an issue; he does not make reference to any legal argument or authority, and it appears that those remaining claims pertained to the claims of alleged excessive fines in truancy cases, which were not before the district court.

B. One of Hennessey's claims requires more discussion, if only because of its nature. He asserts that the district judge erred in denying a motion to disqualify. Hennessey contends that, because the district judge's brother served as a trustee for the Lubbock County School District, the judge's brother had an interest in the outcome of the action. According to Hennessey, Blalack and school district officials entered into a "cynical connivance" to extract excessive fines from poor parents of truants. Also, Hennessey urges that Vega was subjected to unconstitutional acts by a school district employee.

Among other grounds, disqualification is required where a person within the third degree of relationship to the judge is known by the judge to have an interest in the outcome of the proceeding. 28 U.S.C. § 455(b)(5)(iii). That is not the case here. Hennessey's claims had no possible relation to the school district. And, as noted, Vega's claims, which perhaps

related to the school district, were not before the court--it had denied joinder/intervention before the motion to disqualify was filed. This assignment of error is frivolous.

III. For the foregoing reasons, the orders of the district court are AFFIRMED.

ON PETITION FOR REHEARING (September 27, 1994)
Before DAVIS, BARKSDALE and BENAVIDES, Circuit Judges.
PER CURIAM:

IT IS ORDERED that the petition for rehearing filed in the above case is DENIED.

ENTERED FOR THE COURT:
/s/Rhesa Barksdale, United States Circuit Judge
Filed September 27, 1994, Charles R. Fulbruge III, Clerk
U.S. Court of Appeals
[Clerk's Note: See FRAP and Local Rules 41 for Stay of the Mandate]

ORDER (November 22, 1994)

The motion of appellant for a further stay of the issuance of the mandate is GRANTED to and including December 16, 1994, under the same conditions as set forth in the preceding order of this Court.

/s/Rhesa Barksdale, United States Circuit Judge
U.S. Court of Appeals
Filed November 22, 1994
Charles R. Fulbruge III, Clerk

ORDER (January 17, 1995)

IT IS ORDERED that pro se appellants' motion to supplement the record on appeal is GRANTED.

/s/ Rhesa H. Barksdale, United States Circuit Judge
Filed Jan. 17, 1995
U.S. Court of Appeals, Charles R. Fulbruge III, clerk

APPENDIX B

ORDERS AND NOTICES OF APPEAL FILED
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION
Civil Action No. 5-93CV078-C (unless otherwise indicated)

GERARD HENNESSEY, Plaintiff
LINDA ANN VEGA, Petitioner to Join, et al, §
v. §
L. J. BLALACK, DON MacBEATH, §
J. DAVID NELSON, MELISSA MARTIN, §
JULIE MARTIN, ROSE MARIE CHIVERS, §
DIANA HOLLOMAN, LYN DUVAL, §
PATSY SUMMERS, ROBERT FLOWERS, §
JOHN NEAL, DOUG GREATHOUSE, §
COUNTY OF LUBBOCK, COLENE FIELDING §
et al, Defendants §

==========93-1808==========

[Document 93 filed August 25, 1993]

ORDER

This case is before the court for consideration of the Motion to Dismiss filed June 4, 1993, by Defendants Julie Martin and Patsy Summers. Although plaintiff's response to the motion was not timely filed in accordance with Rule 5.1(e) of the Local Rules of the Northern District of Texas, the court has considered the Response filed by Gerard Hennessey on June 28, 1993. After considering the motion, the written argument of counsel and the pro se plaintiff, and the record in this case, the court is of the opinion that the Motion to Dismiss of Julie Martin and Patsy Summers should be granted.

Plaintiff's complaint may not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts

in support of his claim which would entitle him to relief. Conley v. Gibson, 355 R.S. 41, 45-46 (1957). The court has construed the complaint of the plaintiff liberally. See Haines v. Kerner, 404 U.S. 519 (1972). It has accepted the facts plead by the plaintiff as true and has viewed any inferences that may be drawn therefrom in the light most favorable to the plaintiff. Scheuer v. Rhodes, 416 U.S. 232 (1974). Still the court must conclude that the plaintiff cannot establish any meritorious claim against these two defendants under any theory proposed in his pleading. Therefore, the motion to dismiss should be granted. Nevels v. Wilson, 402 F.2d 479 (5th cir. 1968).

Plaintiff has alleged that Julie Martin conspired to prepare, execute and swear false statements to the effect that Gerard Hennessey's conduct justified his arrest. He also asserts that Julie Martin aided and abetted Melissa Martin and others to conspire to prevent him from examining records to which "public access is stipulated in Texas Attorney General's Open Records Opinion No. 25 dated March 7, 1974." He seeks declaratory relief and monetary damages from Julie Martin.

The only complaints plaintiff has asserted against Patsy Summers are that she routinely "prepared and swore statements at the request of Judge Blalack" that she knew were false and that she notarized a statement made by Melissa Martin when she knew that statement about Gerard Hennessey was false. Plaintiff has not stated what, if any, relief he is seeking against Patsy Summers.

Accepting all of these allegations as true, plaintiff has failed to state a claim for relief against either Julie Martin or Patsy Summers. Plaintiff has no standing to seek damages under the RICO provisions because he has never been subjected to the conduct about which he complains; i.e., excessive fines. Plaintiff has not stated a cause of action against either of these defendants for violating any right guaranteed by the United States Constitution.

Neither the conduct of Julie Martin nor that of Patsy Summers resulted in any deprivation of liberty or of property of Gerard Hennessey. He has not stated how anything in their conduct can

be construed as depriving him of equal protection of the law. This court is unable to infer such a claim from the facts alleged. Therefore, these defendants are entitled to have their motion to dismiss granted.

Any cause of action against these defendants based upon any state law is dismissed pursuant to 28 U.S.C. § 1367 (c)93).

It is, accordingly, ordered that the Motion to Dismiss filed by Defendants Julie Martin and Patsy Summers is **GRANTED** and all causes of action against them are, hereby, **DISMISSED**.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated August 24, 1993.

/s/ SAM R. CUMMINGS
United States District Judge

[Document 94 filed August 25, 1993]

ORDER

By order dated August 24, 1993, the Court granted the Motion to Dismiss filed by Defendants Julie Martin and Patsy Summers.

It is, therefore, ORDERED that Plaintiff's claims against Defendants Julie Martin and Patsy Summers are severed and shall hereafter be styled Gerard Hennessey v. Julie Martin and Patsy Summers, No. 5:93-CV-221-C.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorney of record by first class mail.

Dated August 25, 1993.

/s/ SAM R. CUMMINGS
United States District Judge

Document 2, Civil Action No. 5:93-CV-221-C
Filed August 25, 1993

JUDGMENT

By order dated August 24, 1993, in Civil Action 5:93-CV-078-C, Plaintiff's claims against Defendants, JULIE MARTIN and PATSY SUMMERS, were dismissed.

It is, accordingly, ORDERED, ADJUDGED, and DECREED that Plaintiff take nothing as against Defendants.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorny of record by first class mail.

Dated August 25, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 101 filed September 4, 1993
(duplicate filed as Document 3 in Case No. 5-93CV221-C)]

MOTION TO QUASH AND STAY ENFORCEMENT OF ORDERS AND NOTICE OF APPEAL OF ORDERS

To the Honorable Judge of said Court:

Plaintiff hereby requests the Court to reconsider the matters contained in and to quash the following Orders:

1. Order dated August 24, 1993, granting Defendants Julie Martin's and Patsy Summers' Motion to Dismiss.

2. Order dated August 24, 1993, severing Plaintiff's claims against Defendants Julie Martin and Patsy Summers, styling them Gerard Hennessey v Julie Martin and Patsy Summers, No. 5:93-CV-221-C.

3. Order dated August 24, 1993, denying Plaintiff's claims against Defendants Julie Martin and Patsy Summers.

Plaintiff makes this request on the grounds that the Court has failed to consider the matter of defendants' alleged participation in a corrupt conspiracy that, under the color of the laws of the State of Texas, as a matter of policy and procedure over an extended period of time did knowingly and intentionally deprive Lubbock citizens of rights guaranteed them under the Constitution and Laws of the State of Texas and the United States in order to enrich a group of conspirators, including Defendants and others. Once a Defendant can be shown to have

taken ONE action in support of the aims of the alleged conspiracy, the Defendant assumes the burden of proof to show some other action terminating her participation in the conspiracy; otherwise the Defendant is equally liable with all other perpetrators for all damages and injuries caused by the conspiracy. Neither Defendant Julie Martin nor Defendant Patsy Summers has denied the alleged participatory act, nor has either Defendant claimed to have carried out a terminating act. Therefore, Plaintiff claims both Defendants should be retained in the original action.

Other matters before the Court also bear on this request, such as the application by Gerard Hennessey and Linda Ann Vega for certification of the action as a class action. As proposed representative of members of the proposed class, Plaintiff is under obligation not to agree or comply with any effort to remove any causes or defendants from the action because the interests of all or a subgroup of the proposed class may be adversely affected by res judicata effects.

Plaintiff in the alternative requests the Court to grant a stay of enforcement of the above orders until after discovery has been completed and a jury has heard the evidence and decided the facts, to determine the specific liabilities of Defendants Julie Martin and Patsy Summers for their participation in the alleged corrupt conspiracy, in accordance with Rule 23 of the Federal Rules of Civil Procedure, and on the grounds of accepted practice whereby stay of enforcement is normally granted in actions involving multiple issues and/or multiple parties.

Plaintiff claims the Court is in error in its statement in said Order that Plaintiff's Response to Defendants' Motion to Dismiss was out of time. The Court claims the Motion was filed on June 4, 1993, although the Court's stamp indicates June 7 which was subsequently was crossed out and replaced by a 4 on Plaintiff's copy of the Motion. Plaintiff's Response was filed on June 28, 1993, a Monday, which is computed as follows: starting with June 5, adding 20 days gives June 25; Rule 6 (a) of the Federal Rules of Civil Procedure allows a further three days for service by mail. Plaintiff respectfully requests the Court to

withdraw this comment from said Order Granting Defendants' Motion to Dismiss, and to notify all parties to said Action thereof. Furthermore, Plaintiff claims that counsel for other parties such as the Attorney General of the State of Texas have failed to submit a single document within the prescribed time limits.

Plaintiff also hereby gives notice of his intention to appeal the above orders to the United States Fifth Circuit Court of Appeal.

Respectfully submitted, /s/ Gerard Hennessey

[Document 109, Filed September 9, 1993]

ORDER

After consideration of Plaintiff's Request to Quash and Stay Enforcement of Order (regarding Defendants Julie Martin and Patsy Summers), filed September 9, 1993, the court is of the opinion that the same should be DENIED.

SO ORDERED.

The clerk shall furnish a copy of this order to any party appearing pro se by certified mail/return receipt requested and to each attorney of record by first class mail .

Dated September 9, 1993.

/s/SAM R. CUMMINGS
United States District Judge

[Document 5, Civil Action No. 5:93-CV-221-C, filed September 9, 1993]

ORDER

After consideration of Plaintiff's Motion to Quash and Stay Enforcement of Order, filed September 7, 1993, the Court is of the opinion that the same should be DENIED.

SO ORDERED.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorny of record by first class mail.

Dated September 9, 1993.
/s/SAM R. CUMMINGS, United States District Judge

==========93-1809==========

[Document 96, filed August 30, 1993]

ORDER

This case is before the court for consideration of the Motion to Dismiss filed by John Neal and Doug Greathouse on June 4, 1993. The court has considered the motion, the written argument of counsel and the pro se plaintiff, and the record in this case and is of the opinion that the motion should be granted, the case against these defendants should be severed, and judgment should be entered in favor of these defendants.

The court has concluded that plaintiff can prove no set of facts in support of any theory advanced in either his complaint or in his response to the motion to dismiss that would entitle him to any relief against these defendants. See Conley v. Gibson, 355 U.S. 41, 45-46 (1957). The court has accepted the facts plead by the plaintiff as true and has viewed any inference that may be drawn therefrom in the light most favorable to the plaintiff. See Scheuer v. Rhodes, 416 U.S. 232 (1974).

Plaintiff, Gerard Hennessey, has not been subjected to any excessive fine, so, he has no standing to sue for damages under RICO. Plaintiff, Gerard Hennessey, has failed to state a cause of action against either of these defendants under 42 U.S.C. S 1983. Furthermore, even if the complaint could be construed to state a claim against either of them, John Neal is entitled to absolute immunity from suit. Imbler v. Pachtman, 424 U.S. 409, 431 (1976). Doug Greathouse is entitled, at the lease, to qualified immunity from suit. Harlow v. Fitzgerald, 457 U.S. 800 (1982). Hennessey has failed to allege any facts that are sufficient to overcome that immunity from suit.

Any cause of action against these defendants based upon any state law is dismissed pursuant to 28 U.S.C. S 1367(c)(3).

It is, accordingly, ordered that the Motion to Dismiss filed by Defendants John Neal and Doug Greathouse is **GRANTED**

and all causes of action against them are, hereby, **DISMISSED.**

Furthermore, the court has determined that there is no just reason for delay in the entry of final judgment as to these defendants. See Rule 54(b), Fed.R.Civ.P.

It is, therefore, ordered that plaintiff's claims against Defendants John Neal and Doug Greathouse are, hereby, **SEVERED** and shall hereafter he styled Gerard Hennessey v. John Neal and Doug Greathouse, Cause No. 5-93CVO226-C.

Judgment shall be entered in accordance with the foregoing order.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated August 30, 1993.

/s/ SAM R. CUMMINGS, United States District Judge

[Document 2, Civil Action No. 5:93-CV-226-C, filed August 30, 1993]

JUDGMENT

By order dated August 30, 1993, in Civil Action 5:93-CV-078-C, Plaintiff's claims against Defendants, JOHN NEAL and DOUG GREATHOUSE, were dismissed.

It is, accordingly, ORDERED, ADJUDGED, and DECREED that Plaintiff take nothing as against Defendants.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorny of record by first class mail.

Dated August 30, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 106, filed September 9, 1993 (duplicate filed as Document 3 in Civil Action No. 5:93-CV-226-C)]

MOTION TO QUASH AND STAY ENFORCEMENT OF ORDER AND NOTICE OF APPEAL OF ORDER

To the Honorable Judge of said Court:

Plaintiff hereby requests the Court to quash its Order dated August 30, 1993, granting the Motion of Defendants John Neal and Doug Greathouse to Dismiss the complaint against them. Plaintiff makes this request on the grounds that:

1. The Court has failed to consider the matter of defendants' alleged participation in a corrupt conspiracy that, under the color of the laws of the State of Texas, as a matter of policy and procedure over an extended period of time did knowingly and intentionally deprive Lubbock citizens of rights guaranteed them under the Constitution and Laws of the State of Texas and the United States in order to enrich a group of conspirators and others. Once a Defendant can be shown to have taken ONE action or a public official can be shown to have refrained from taking action that has the effect of facilitating or supporting the aims of the alleged conspiracy, the Defendant assumes the burden of proof to show some other action terminating participation in the conspiracy; otherwise each Defendant is equally liable with all other perpetrators for all damages and injuries caused by the conspiracy. Neither Defendant John Neal nor Doug Greathouse has claimed to have carried out a terminating act. Therefore, Plaintiff claims both Defendants should be retained in the original action.

2. Defendants John Neal and Doug Greathouse are elected and appointed public officials who were entrusted in March 1992 by Judge Quay Parker to investigate and prosecute allegations of judicial misconduct on the part of Defendant L. J. Blalack as a result of an Ex Rel action for his removal filed by Gerard Hennessey and Linda Ann Vega. Their complaint contained serious allegations about Defendant Blalack's violation of their civil and constitutional rights, including unlawful imprisonment, imposition of excessive fines, public abuse, and denial of access to public records--any one of which, if proven, would have been grounds for Defendant Blalack's immediate removal from the bench. Lubbock County records show that Defendants John Neal and Doug Greathouse's investigation lasted two days; after this point Defendants advised Plaintiffs

Hennessey and Vega that they would not proceed with the investigation. A similar investigation by District Attorney Terry McEachern and Jim Mull over a period of three days in January 1993 resulted in five grand jury indictments. This refusal to act on the part of Defendants John Neal and Doug Greathouse facilitated the continuation of the alleged corrupt conspiracy which allowed Defendant Blalack to remain in office a further six months. Defendant Blalack's successor Tom Head and Mark Welbourn have both examined the court records of Justice of the Peace Precinct 1 from 1988 to 1992. Attached hereto are the notes they took during the first three hours of starting to examine the records at random; these notes show that extensive evidence of criminal misconduct was immediately obvious. Even in the most cursory of investigations, Defendants John Neal and Doug Greathouse could not have missed finding clear evidence of the conduct complained of. Whether this refusal on the part of these public officials to investigate widely known instances of serious judicial misconduct is such that they can be shown to have become participants in the alleged corrupt conspiracy should be determined by a trier of fact after discovery and presentation of testimony and evidence have been completed.

3. In the six months during which Defendant Blalack remained in office, several hundred Lubbock more citizens were abused, falsely imprisoned, denied access to public records, and excessive fines were extorted from them. Because the role of the prosecutor is the vital link between the constitutions and laws of the State of Texas and the United States and their impact upon citizens, prosecutors are given extraordinary powers over property and individuals. However, when citizens are harmed by prosecutors' actions during the investigative stage, prosecutors can be held liable for damages arising therefrom. The Lubbock citizens who were harmed in that period are members of the proposed class; no disposition of the liability of Defendants Neal and Greathouse should be made until the application for certification of the action as a class action has been decided.

4. Other matters before the Court also bear on this request, such as the application by Gerard Hennessey and Linda

Ann Vega for certification of the action as a class action. As proposed representative of members of the proposed class, Plaintiff is under obligation not to agree or comply with any effort to remove any causes or defendants from the action because the interests of all or a subgroup of the proposed class may be adversely affected by res judicata effects.

Plaintiff in the alternative requests the Court to grant a stay of enforcement of the above orders until after discovery has been completed and a jury has heard the evidence and decided the facts, to determine the specific liabilities of Defendants John Neal and Doug Greathouse for their participation in the alleged corrupt conspiracy, in accordance with Rule 23 of the Federal Rules of Civil Procedure, and on the grounds of accepted practice whereby stay of enforcement is normally granted in actions involving multiple issues and/or multiple parties.

Plaintiff also hereby gives notice of his intention to appeal the above orders to the United States Fifth Circuit Court of Appeal.

Respectfully submitted, /s/ Gerard Hennessey

[Document 110, filed on September 9, 1993]

ORDER

After consideration of Plaintiff's Motion to Quash and Stay Enforcement of Order (regarding Defendants John Neal and Doug GReathouse), filed September 9, 1993, the court is of the opinion that the motion should be DENIED.

SO ORDERED.

The clerk shall furnish a copy of this order to any party appearing pro se by certified mail/return receipt requested and to each attorney of recordby first class mail .

Dated September 9, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 6 in 5:93-CV-226-C, filed on September 9, 1993]

ORDER

After consideration of Plaintiff's Motion to Quash and Stay Enforcement of Order, filed September 9, 1993, the Court is of the opinion that the same should be DENIED.

SO ORDERED.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorny of record by first class mail.

Dated September 9, 1993.

/s/SAM R. CUMMINGS, United States District Judge

==========93-1835==========

[Document 95, filed August 26, 1993]

ORDER

This case is before the court for consideration of the Motion to Dismiss filed June 4, 1993, by Defendants Don McBeath and Lubbock County. Although plaintiff's response to the motion was not timely filed in accordance with Rule 5.1(e) of the Local Rules of the Northern District of Texas, the court has considered the Response filed by Gerard Hennessey on June 28, 1993. After considering the motion, the written argument of counsel and the pro se plaintiff, and the record in this case, the court is of the opinion that the Motion to Dismiss of Lubbock County and Don McBeath should be granted in part and denied in part.

Plaintiff's complaint may not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957). The court has construed the complaint of the plaintiff liberally. See Haines v. Kerner, 404 U.S. 519 (1972). It has accepted the facts plead by the plaintiff as true and has viewed any inferences that may be drawn therefrom in the light most favorable to the plaintiff. Scheuer v.

Rhodes, 416 U.S. 232 (1974).

Liberally read, plaintiff's complaint can be construed as stating a cause of action against Lubbock County and against Don McBeath in his official capacity. Plaintiff has alleged that a policy or custom of Lubbock County resulted in a deprivation of his liberty without due process of law.

Plaintiff, Gerard Hennessey, has no standing to seek damages against Lubbock County or against Defendant Don McBeath in either his individual or his official capacity for any alleged violations of 18 U.S.C. § 1961, et seq., because Gerard Hennessey has never been subjected to the conduct about which he complains; i.e., excessive fines. Consequently, all claims under the RICO statute against Lubbock County and Don McBeath in his individual and in his official capacity will be dismissed.

Plaintiff has not stated a cause of action against Don McBeath in his individual capacity for violating any right guaranteed by the United States Constitution. The conduct of Don McBeath, individually, did not result in any deprivation of liberty or of property of Gerard Hennessey. He has not stated how anything in McBeath's conduct can be construed as depriving him of equal protection of the law. This court is unable to infer such a claim from the facts alleged. Therefore, Defendant Don McBeath, in his individual capacity, is entitled to have his motion to dismiss granted.

Any cause of action against Don McBeath in his individual capacity based upon any state law will be dismissed pursuant to 28 U.S.C. § 1367(c)(3).

It is, accordingly, ordered that the Motion to Dismiss filed by Defendant Don McBeath in his individual capacity is GRANTED and all causes of action against Don McBeath in his individual capacity are, hereby, DISMISSED.

It is, further, ordered that the Motion to Dismiss plaintiff's claims under 18 U.S.C. § 1961, et seq., against Lubbock County and Don McBeath in his official capacity is GRANTED and those claims are, hereby, DISMISSED.

ALL OTHER RELIEF REQUESTED IS DENIED.

The clerk shall furnish a copy of this order by certified

mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated August 25, 1993.

/s/ SAM R. CUMMINGS, United States District Judge

[Document 99, filed September 7, 1993]

REQUEST TO QUASH AND STAY ENFORCEMENT OF ORDER AND NOTICE OF APPEAL OF ORDER

To the Honorable Judge of said Court:

Plaintiff hereby requests the Court to quash its Order dated August 25, 1993, granting the Motion of Defendants Don McBeath and Lubbock County to Dismiss the complaint against them. Plaintiff makes this request on the grounds that:

1. The Court has failed to consider the matter of defendants' alleged participation in a corrupt conspiracy that, under the color of the laws of the State of Texas, as a matter of policy and procedure over an extended period of time did knowingly and intentionally deprive Lubbock citizens of rights guaranteed them under the Constitution and Laws of the State of Texas and the United States in order to enrich a group of conspirators, including Defendants and others. Once a Defendant can be shown to have taken ONE action or a public official can be shown to have refrained from taking action that has the effect of facilitating or supporting the aims of the alleged conspiracy, the Defendant assumes the burden of proof to show some other action terminating participation in the conspiracy; otherwise each Defendant is equally liable with all other perpetrators for all damages and injuries caused by the conspiracy. Neither Defendant Don McBeath nor Defendant Lubbock County has claimed to have carried out a terminating act. Therefore, Plaintiff claims both Defendants should be retained in the original action.

2. Inaction on the part of Defendant Don McBeath as a public official, and Defendant Lubbock County as a public entity concerning violations of the civil and other legal rights of

Lubbock citizens by Defendant L. J. Blalack, when they were entrusted by the public with the duty to protect their rights and privileges under the laws and constitutions of the United States and the State of Texas gives rise to concern about participation in a conspiracy. Defendant McBeath can be shown to have received an amount of almost $3,000, not authorized by Lubbock County Commissioners Court as stipulated in Texas statutes, over a period of less than six months while Defendant Lubbock County can be shown to have received at least $100,000, directly from the proceeds of Defendant L. J. Blalack's extortion activity, leading to considerable probability that Defendants were at least involved in facilitation of said activity. The evidence is such that Plaintiff claims Defendants' role in the alleged corrupt conspiracy can only be determined by a trier of fact after the process of discovery is complete and evidence and testimony are presented in open court.

3. Other matters before the Court also bear on this request, such as the application by Gerard Hennessey and Linda Ann Vega for certification of the action as a class action. As proposed representative of members of the proposed class, Plaintiff is under obligation not to agree or comply with any effort to remove any causes or defendants from the action because the interests of all or a subgroup of the proposed class may be adversely affected by res judicata effects.

4. Plaintiff was injured by the violation of his civil rights, especially by false imprisonment by Defendant L. J. Blalack, in a way that would not have been possible had Defendants Don McBeath and Lubbock County not been participants in the alleged corrupt conspiracy, which was fuelled by distribution of bonuses, overtime payments, and granting of other concessions and favors to support the continuation of a longstanding, widespread corrupt conspiracy of which Defendant Lubbock County provided the protective and facilitative infrastructure in return for its role as principal recipient of its unlawful proceeds.

Plaintiff in the alternative requests the Court to grant a stay of enforcement of the above orders until after discovery has

been completed and a jury has heard the evidence and decided the facts, to determine the specific liabilities of Defendants Don McBeath and Lubbock County for their participation in the alleged corrupt conspiracy, in accordance with Rule 23 of the Federal Rules of Civil Procedure, and on the grounds of accepted practice whereby stay of enforcement is normally granted in actions involving multiple issues and/or multiple parties.

Plaintiff claims the Court is in error in its statement in said Order that Plaintiff's Response to Defendants' Motion to Dismiss was out of time. The Court claims the Motion was filed on June 4, 1993. Plaintiff's Response was filed on June 28, 1993, a Monday, which is computed as follows: starting with June 5, adding 20 days gives June 25, a Friday; Rule 6 (a) of the Federal Rules of Civil Procedure allows a further three days for service by mail. Plaintiff respectfully requests the Court to withdraw this comment from said Order Granting Defendants' Motion to Dismiss, and to notify all parties to said Action thereof.

Plaintiff also hereby gives notice of his intention to appeal the above orders to the United States Fifth Circuit Court of Appeal.

Respectfully submitted, /s/ Gerard Hennessey

[Document 108, filed September 9, 1993]

ORDER

After consideration of Plaintiff's Request to Quash and Stay Enforcement of Order (regarding Defendants Don McBeath and Lubbock County), filed September 9, 1993, the court is of the opinion that the same should be DENIED.

SO ORDERED.

The clerk shall furnish a copy of this order to any party appearing pro se by certified mail/return receipt requested and to each attorney of record by first class mail .

Dated September 9, 1993.

/s/SAM R. CUMMINGS, United States District Judge

==========93-9009==========

[Document 112, filed September 13, 1993]

ORDER

After consideration of the Plea for Permission to Amend Motion for Joinder of Linda Ann Vega as Co-Plaintiff and Colene Fielding as Co-Defendant to the Action, filed August 19, 1993, the Court is of the opinion that the same should be DENIED because the Motion for Joinder has no merit. Linda Ann Vega's claims against Colene Fielding are not related to the Plaintiff's cliams against Defendant Blalack.

SO ORDERED.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorney of record by first class mail.

Dated September 10, 1993.

/s/ SAM R. CUMMINGS, United States District Judge

[Document 131, filed September 20, 1993]

MOTION TO QUASH AND STAY ENFORCEMENT OF ORDERS, TO RECUSE COUNSEL, TO COMPEL DISCOVERY, MOTION FOR SUMMARY JUDGMENT, AND NOTICE OF APPEAL OF ORDER, WITH ACCOMPANYING BRIEFS.

To the Honorable Judge of said Court:

Plaintiffs hereby respectfully request the Court to act as follows:

1. Plaintiffs request the Court to reconsider and the matters contained in and to quash the Court's Order dated September 13, 1993, granting the Motion for Protection and Motion to Stay Discovery on behalf of Julie Martin, Patsy Summers, Rose Marie Chivers, John Neal, Doug Greathouse, Don McBeath, and Lubbock County. Plaintiffs request the Court to reverse its Order; they request that the Court instead issue an Order to Compel Discovery on the grounds that:

a. The Court has failed to consider the matter of defendants' alleged participation in a corrupt conspiracy that, under the color of the laws of the State of Texas, as a matter of policy and procedure over an extended period of time did knowingly and intentionally deprive Lubbock citizens of rights guaranteed them under the Constitution and Laws of the State of Texas and the United States in order to enrich a group of conspirators, including Defendants and others. The false statements prepared, sworn, executed and notarized by Defendants Julie Martin and Patsy Summers directly obstructed two investigations by the State of Texas: that by the Texas Judicial Conduct Commission and that directed by Judge Quay Parker. Defendants John Neal, and Doug Greathouse failed to act in spite of extensive evidence of abuses and violations by Defendant Blalack. Defendants Neal and Greathouse failed to interview and check on the statements of Defendants Melissa Martin, Julie Martin, Diana Holloman, Lyn Duval and Rose Marie Chivers, despite conflicting statements provided by Jay Helton, Mike Erickson and Arthur Hetler.

b. Once a Defendant can be shown to have taken ONE action in support of the aims of the alleged conspiracy, the Defendant assumes the burden of proof to show some other action terminating his or her participation in the conspiracy; otherwise the Defendant is equally liable with all other perpetrators for all damages and injuries caused by the conspiracy. Unlike Defendants L. J. Blalack, Robert Flowers and Melissa Martin, none of the above Defendants has denied the alleged participatory acts nor has any one of them claimed to have carried out a terminating act. Plaintiff will show that others involved with or associated with the alleged corrupt conspiracy did carry out the requisite terminating acts.

c. The Court is in error in its statement that dismissal of the complaint against Defendants makes discovery moot. Even if Plaintiff's appeal of dismissal of complaints against Defendants were to be denied by the Appellate Court, Plaintiffs' interrogatories are still relevant to the Lawsuit. Plaintiffs have the right to submit Requests for Production and Interrogatories

to any person who may possess documents or knowledge of matters relevant to the Lawsuit. Removal of Defendants from the Lawsuit does not absolve them of their obligation under Federal law to comply with discovery in any civil case before the Court. When Federal District Court is called upon to pass on the merits of a case, discovery rules demand that parties be ready to disgorge all knowledge they have Burke v Fire Underwritiers Inc. (DCMo. 1958 21 FRD 583). Sanctions and preclusion of opposing evidence was imposed by the Court on the basis of continuous pattern of delay and obfuscation during discovery. Jankins v TDC Management Corp Inc. DDC 1989, 131 FRD 629. In Cruz v Estelle (1974 CA5Tex, 497 F2d496) the Court held that determination as to whether the suit should be maintained as a class action and whether a Pro Se plaintiff could act for the class as fairly representative of the members thereof and able adequately to protect their interests may not be taken before a hearing is held, before or after discovery. Because the Court has not held the requisite Hearing, the Court has ordered dismissal of Plaintiffs' Motion for Certification of their Action as a Class Action prematurely and in error.

d. Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided in FRCP Rule 26(b)(3). One party may discover relevant facts known or available to the other party, even though such facts are contained in a document which is not itself discoverable.

e. In Yaffe v Powers (1972 CA1 Mass) 454 F2d 1362, 24 ALR Fed 864) , preliminary discovery was required in a proposed class action for determining both questions of law and fact. The Court was required to allow discovery on the conduct of defendants, a group of police officers, toward members of a class. Plaintiffs claim the issues in their Motion to Compel Discovery are the same.

2. Plaintiffs request the Court to issue an Order to Compel Discovery upon all Defendants in said Lawsuit, all of whom have refused to respond to Plaintiff's legitimate requests for documents

and information, because their refusal to cooperate with discovery has made it difficult for Plaintiffs--who are acting Pro Se to respond to motions, and has resulted in constructive denial of Plaintiffs' right to seek redress for injuries inflicted upon them by Defendants and the alleged corrupt conspiracy, from which Defendant McBeath and Counsel for Defendants Ratliff can be shown to have profited.

a. Plaintiffs request the Court to Compel Discovery under the Texas Open Records Act, whereby Counsel for Defendants Sunny Ratliff has refused to comply with a request for computer records that are public (see Plaintiff's letter attached hereto, initialed by Counsel for Defendants Ratliff). Where civil rights matters are involved, particularly with regard to access to public services and information, the Federal Court may act to enforce State laws on behalf of citizens.

b. Plaintiffs contend that the main purpose and intent of Counsel Ratliff's Motion for Protection is to prevent, delay and obfuscate discovery in violation of Federal Rules, to deny Plaintiff their right to inspect public documents and records. When the Federal District Court is called on to pass on merits of a case, discovery rules demand that parties be ready to disgorge all knowledge they have--regardless if it is laborious, Lloyd v Cessna Aircraft Co. DCTen. 1976 434FSupp4.

c. Plaintiffs contend that, had Defendants not participated in the alleged corrupt conspiracy--one aspect of which was denial of access to court records--this Action would never have arisen because Defendant Blalack's abuse of public office could have been dealt with when they first came to citizens' notice in the late 1970s. Since then until 1992, a longstanding and corrupt conspiracy protected Defendant Blalack from removal and liability.

3. Plaintiffs respectfully request the Court to issue an Order to Disqualify Counsel Sunny Ratliff, on the following grounds:

a. Plaintiffs will provide tape recordings and testimony by staff working in the Office of the District Attorney of Defendant Lubbock County, that Defendant Blalack's abuses, excessive fines and unlawful conduct toward citizens were known

to senior officials in that Office, and that they intentionally failed to act so that they might partake of the proceeds of the revenue from the "hot check" and other special funds produced as a direct result of imposition of excessive fines and fees and denial of civil and constitutional rights by Defendant Blalack. Defendant Don McBeath and Counsel for Defendants Sunny Ratliff were both members of the staff of the Office of the Office of the District Attorney during this period, and was aware of said abuses about which McBeath took no action; both received bonus payments from the proceeds of said special funds.

b. Plaintiffs note that the Presiding Judge of this Court in 1993 imposed severe penalties for misprision of a felony upon Barry Wickson, and claim that Defendants' failures to act are no different.

c. In 1991 Sunny Ratliff issued a memorandum to Defendant Blalack and Lubbock Independent School District, clearly defining for Defendant Blalack the law regarding truancy cases and giving details of how truancy cases should be handled, covering the specific items about which Plaintiffs and others have complained such as overfining, hearing cases out of jurisdiction, and allowing parents to present a defense. It is obvious that Ratliff, as a result of this memorandum and her former position as Juvenile Officer in the Office of the District Attorney, is likely to be called as a witness in this Action, especially as the Original Complaint covers the issues stated in her memorandum. Plaintiffs included a copy of Ratliff's memo in these pleadings, and included Ratliff's name in the List of Witnesses provided to Defendants under discovery. Plaintiffs claim Ratliff should be disqualified in this their Motion to Disqualify Counsel, on grounds that she will be called as a witness for the Plaintiff, to give testimony that is likely to be prejudicial to her clients' interests. The State of Texas Disciplinary Rule 5-105 requires withdrawal when a lawyer or firm member becomes a witness other than on behalf of the client when it is apparent that his testimony is or may be prejudicial to his client. As a former Juvenile Officer and presently Assistant District Attorney as well as the author of the abovedescribed truancy procedures

memorandum, Ratliff will be called to testify not only about its contents, but about Defendant Don McBeath's knowledge about Blalack's abuses, and why McBeath--like Ratliff and others--failed to pursue prosecution of Defendant Blalack for his widely-known acts of judicial misconduct rather than share in the unlawful proceeds of the alleged corrupt conspiracy that derived its revenue directly from Blalack's unfettered violation of constitutional and civil rights as well as the laws and professional canons of the State of Texas and the United States.

d. Because of Counsel Sunny Ratliff's financial and other interests in the alleged corrupt conspiracy, Plaintiffs request the Court to review all documents she has submitted to the Court under Local Rule 13.2(a), 13.2(b)(iii), 13.2(d) with regard to possible problems associated with the initial stages of the Lawsuit, at which time a reasonable person would have known that with her knowledge and association with the court of Defendant L. J. Blalack, it was highly likely she would be called as a witness to give testimony prejudicial to the interests of her clients.

4. Plaintiffs request the Court to grant this, their Motion for Summary Judgment on the grounds that none of the Defendants included in the Court's Order has denied the alleged participatory acts nor has any of said Defendants claimed to have carried out a terminating act.

a. Federal Rules of Civil Procedure Rule 8(d) states: "Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading." Any allegation not denied by a defendant is taken by the Court to be admitted. Plaintiffs claim that no such requisite denial exists in Defendants' responsive pleadings, which deal only with motions to dismiss. The necessary pleadings were timely filed by counsel for Melissa Martin and L. J. Blalack, and were filed three days out of time by Counsel for Robert Flowers. The Court should note that in the case of Don McBeath and Lubbock County, counsel filed the requisite responsive pleading as his First Answer to Original Complaint on September 8, 1993. Plaintiffs claim this is so far out of time as to constitute failure to respond.

b. Plaintiffs claim that Defendants have superior access to the evidence because it is largely in public records, access to which Defendants and Defendants' Counsel have denied Plaintiffs. Plaintiffs contend that all burden of proof on all issues in this Lawsuit be placed upon Defendants, who have persistently, vigorously, unfairly, and contentiously defied Plaintiffs' requests for production of documents and answers to interrogatories. In Jankins v TDC Management Corp Inc. DDC 1989, 131 FRD 629, the court issued and Order precluding production of opposing evidence because of a continuous pattern of delay, refusal and obfuscation during discovery.

c. As public officials, Defendants owed Plaintiffs the duty to use care towards citizens who come before them; Plaintiffs claim that Defendants engaged instead in wilful and wanton misconduct and neglect of specific official duties entrusted to them. Plaintiffs claim that Defendants' refusal to comply with discovery notwithstanding, Plaintiffs have presented adequate evidence in the pleadings to prevail in this Lawsuit and have clearly stated the requisite causes of action. Defendants have made no bona fides response to Plaintiffs' allegations and have refused to answer questions about relevant, material matters which Plaintiffs can show are known to Defendants.

d. Plaintiffs pray the Court to grant their Motion for Summary Judgment on the grounds that Defendants have neither produced nor claimed to be able to provide evidence to contradict any of Plaintiffs' allegations, giving Plaintiffs the right to claim to have proved the preponderance of evidence and thereby ask the Court to find in their favor.

5. Plaintiffs also request the Court to review the entire set of pleadings in this case and to take into account Plaintiff's Motions for Disqualification of Presiding Judge and for Disqualification of Counsel, grounds for both of which are based on Plaintiff's mention in the Original Complaint of injury inflicted upon Linda Ann Vega and her family by the alleged corrupt conspiracy. For example, in 1992 Presiding Judge James Cummings recused himself at the outset of Leal v Blalack et al U.S. District Court 5th Circuit Case No. 5:92-CV-19-J on the

grounds that he had been previously involved in LISD litigation; in view of the fact that truancy cases and LISD were clearly indicated issues in the Original Complaint and they were the main focus of the Motion for Joinder of Linda Ann Vega and Plaintiffs' Motion for Certification of the Action as a Class Action. In Czajkowski v State of Illinois (460 FSupp 1265 Affirmed 588 F2d 839) the Court found that litigants may assert rights of third persons in cases in which the person is somehow disabled from asserting his own rights. Defendant Blalack's widely known practice of terrorizing and imprisoning those who sought to defend themselves in his court was an essential aspect of the alleged corrupt conspiracy whose participants knew their victims' lack of resources, education and political connections would impede their ability to obtain redress for violation of their rights.

6. Other matters before the Court also bear on this request, such as the application by Gerard Hennessey and Linda Ann Vega for certification of the action as a class action. As proposed representative of members of the proposed class, Plaintiffs are under obligation not to agree or comply with any effort to remove any causes or defendants from the action because the interests of all or a subgroup of the proposed class may be adversely affected by res judicata effects.

7. Plaintiffs in the alternative request the Court to grant a stay of enforcement of the above orders until after Plaintiffs' Motion for Disqualification of Presiding Judge has been heard, until all pending appeals have been decided, and a Hearing on Motion on Compel Discovery and a Hearing on Certification of the Action as a Class Action has been completed. Rule 23 of the Federal Rules of Civil Procedure stipulates that broad scope of discovery is allowed and encouraged, so as to include all possible claimants; furthermore, accepted practice whereby stay of enforcement is normally granted in actions involving multiple issues and/or multiple parties. The Court is also mandated to consider the interests of other possible claimants.

8. Plaintiffs also hereby give notice of their Intention to Appeal the above orders to the United States Fifth Circuit Court

of Appeal.

Respectfully submitted,

/s/Gerard Hennessey /s/ Linda Ann Vega

==========93-9010==========

[Document 113, filed September 13, 1993]

ORDER

The court has considered the Defendants' Motion for Protection and Motion to Stay Discovery, filed August 20, 1993, on behalf of Patsy Summers, Julie Martin, Rose Marie Chivers, John Neal, Doug Greathouse, Don McBeath, and Lubbock County. These defendants contend that they should not be required to respond to discovery requests before this court issues its decision on their motions to dismiss. Further, they argue that they should not be required to respond to the interrogatories related to class certification. Plaintiff has not filed a response to the motion.

All of plaintiff's claims against Patsy Summers, Julie Martin, John Neal, Doug Greathouse, and Don McBeath in his individual capacity have been dismissed. No discovery requests have been served upon Rose Marie Chivers. Therefore, the motion for protection and for stay of discovery based upon the defense of immunity of these defendants is moot.[1]

It is, accordingly, ordered that Don McBeath, in his official capacity, shall not be required to repsond to the Interrogatories Related to Certification As A Class Action.

ALL OTHER RELIEF REQUESTED IS DENIED.

Dated September 19, 1993.

/s/ SAM R. CUMMINGS,United States District Judge

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[1] Since these defendants are no longer parties to this litigation, they are not required to respond to the discovery requests. Ms. Chivers is, of course, not required to respond to requests never served upon her.

[Document 130, filed September 20, 1993]

MOTION TO QUASH AND STAY ENFORCEMENT OF ORDERS, TO RECUSE COUNSEL, TO COMPEL DISCOVERY, MOTION FOR SUMMARY JUDGMENT, AND NOTICE OF APPEAL OF ORDER, WITH ACCOMPANYING BRIEFS.

To the Honorable Judge of said Court:

Plaintiffs hereby respectfully request the Court to act as follows:

1. Plaintiffs request the Court to reconsider and the matters contained in and to quash the Court's Order dated September 13, 1993, granting the Motion for Protection and Motion to Stay Discovery on behalf of Julie Martin, Patsy Summers, Rose Marie Chivers, John Neal, Doug Greathouse, Don McBeath, and Lubbock County. Plaintiffs request the Court to reverse its Order; they request that the Court instead issue an Order to Compel Discovery on the grounds that:

a. The Court has failed to consider the matter of defendants' alleged participation in a corrupt conspiracy that, under the color of the laws of the State of Texas, as a matter of policy and procedure over an extended period of time did knowingly and intentionally deprive Lubbock citizens of rights guaranteed them under the Constitution and Laws of the State of Texas and the United States in order to enrich a group of conspirators, including Defendants and others. The false statements prepared, sworn, executed and notarized by Defendants Julie Martin and Patsy Summers directly obstructed two investigations by the State of Texas: that by the Texas Judicial Conduct Commission and that directed by Judge Quay Parker. Defendants John Neal, and Doug Greathouse failed to act in spite of extensive evidence of abuses and violations by Defendant Blalack. Defendants Neal and Greathouse failed to interview and check on the statements of Defendants Melissa Martin, Julie Martin, Diana Holloman, Lyn Duval and Rose Marie Chivers, despite conflicting statements provided by Jay

Helton, Mike Erickson and Arthur Hetler.

b. Once a Defendant can be shown to have taken ONE action in support of the aims of the alleged conspiracy, the Defendant assumes the burden of proof to show some other action terminating his or her participation in the conspiracy; otherwise the Defendant is equally liable with all other perpetrators for all damages and injuries caused by the conspiracy. Unlike Defendants L. J. Blalack, Robert Flowers and Melissa Martin, none of the above Defendants has denied the alleged participatory acts nor has any one of them claimed to have carried out a terminating act. Plaintiff will show that others involved with or associated with the alleged corrupt conspiracy did carry out the requisite terminating acts.

c. The Court is in error in its statement that dismissal of the complaint against Defendants makes discovery moot. Even if Plaintiff's appeal of dismissal of complaints against Defendants were to be denied by the Appellate Court, Plaintiffs' interrogatories are still relevant to the Lawsuit. Plaintiffs have the right to submit Requests for Production and Interrogatories to any person who may possess documents or knowledge of matters relevant to the Lawsuit. Removal of Defendants from the Lawsuit does not absolve them of their obligation under Federal law to comply with discovery in any civil case before the Court. When Federal District Court is called upon to pass on the merits of a case, discovery rules demand that parties be ready to disgorge all knowledge they have Burke v Fire Underwritiers Inc. (DCMo. 1958 21 FRD 583). Sanctions and preclusion of opposing evidence was imposed by the Court on the basis of continuous pattern of delay and obfuscation during discovery. Jankins v TDC Management Corp Inc. DDC 1989, 131 FRD 629. In Cruz v Estelle (1974 CA5Tex, 497 F2d496) the Court held that determination as to whether the suit should be maintained as a class action and whether a Pro Se plaintiff could act for the class as fairly representative of the members thereof and able adequately to protect their interests may not be taken before a hearing is held, before or after discovery. Because the Court has not held the requisite Hearing, the Court has ordered dismissal

of Plaintiffs' Motion for Certification of their Action as a Class Action prematurely and in error.

d. Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided in FRCP Rule 26(b)(3). One party may discover relevant facts known or available to the other party, even though such facts are contained in a document which is not itself discoverable.

e. In Yaffe v Powers (1972 CA1 Mass) 454 F2d 1362, 24 ALR Fed 864) , preliminary discovery was required in a proposed class action for determining both questions of law and fact. The Court was required to allow discovery on the conduct of defendants, a group of police officers, toward members of a class. Plaintiffs claim the issues in their Motion to Compel Discovery are the same.

2. Plaintiffs request the Court to issue an Order to Compel Discovery upon all Defendants in said Lawsuit, all of whom have refused to respond to Plaintiff's legitimate requests for documents and information, because their refusal to cooperate with discovery has made it difficult for Plaintiffs--who are acting Pro Se to respond to motions, and has resulted in constructive denial of Plaintiffs' right to seek redress for injuries inflicted upon them by Defendants and the alleged corrupt conspiracy, from which Defendant McBeath and Counsel for Defendants Ratliff can be shown to have profited.

a. Plaintiffs request the Court to Compel Discovery under the Texas Open Records Act, whereby Counsel for Defendants Sunny Ratliff has refused to comply with a request for computer records that are public (see Plaintiff's letter attached hereto, initialed by Counsel for Defendants Ratliff). Where civil rights matters are involved, particularly with regard to access to public services and information, the Federal Court may act to enforce State laws on behalf of citizens.

b. Plaintiffs contend that the main purpose and intent of Counsel Ratliff's Motion for Protection is to prevent, delay and obfuscate discovery in violation of Federal Rules, to deny Plaintiff

their right to inspect public documents and records. When the Federal District Court is called on to pass on merits of a case, discovery rules demand that parties be ready to disgorge all knowledge they have--regardless if it is laborious, Lloyd v Cessna Aircraft Co. DCTen. 1976 434FSupp4.

c. Plaintiffs contend that, had Defendants not participated in the alleged corrupt conspiracy--one aspect of which was denial of access to court records--this Action would never have arisen because Defendant Blalack's abuse of public office could have been dealt with when they first came to citizens' notice in the late 1970s. Since then until 1992, a longstanding and corrupt conspiracy protected Defendant Blalack from removal and liability.

3. Plaintiffs respectfully request the Court to issue an Order to Disqualify Counsel Sunny Ratliff, on the following grounds:

a. Plaintiffs will provide tape recordings and testimony by staff working in the Office of the District Attorney of Defendant Lubbock County, that Defendant Blalack's abuses, excessive fines and unlawful conduct toward citizens were known to senior officials in that Office, and that they intentionally failed to act so that they might partake of the proceeds of the revenue from the "hot check" and other special funds produced as a direct result of imposition of excessive fines and fees and denial of civil and constitutional rights by Defendant Blalack. Defendant Don McBeath and Counsel for Defendants Sunny Ratliff were both members of the staff of the Office of the Office of the District Attorney during this period, and was aware of said abuses about which McBeath took no action; both received bonus payments from the proceeds of said special funds.

b. Plaintiffs note that the Presiding Judge of this Court in 1993 imposed severe penalties for misprision of a felony upon Barry Wickson, and claim that Defendants' failures to act are no different.

c. In 1991 Sunny Ratliff issued a memorandum to Defendant Blalack and Lubbock Independent School District, clearly defining for Defendant Blalack the law regarding truancy cases and giving details of how truancy cases should be handled,

covering the specific items about which Plaintiffs and others have complained such as overfining, hearing cases out of jurisdiction, and allowing parents to present a defense. It is obvious that Ratliff, as a result of this memorandum and her former position as Juvenile Officer in the Office of the District Attorney, is likely to be called as a witness in this Action, especially as the Original Complaint covers the issues stated in her memorandum. Plaintiffs included a copy of Ratliff's memo in these pleadings, and included Ratliff's name in the List of Witnesses provided to Defendants under discovery. Plaintiffs claim Ratliff should be disqualified in this their Motion to Disqualify Counsel, on grounds that she will be called as a witness for the Plaintiff, to give testimony that is likely to be prejudicial to her clients' interests. The State of Texas Disciplinary Rule 5-105 requires withdrawal when a lawyer or firm member becomes a witness other than on behalf of the client when it is apparent that his testimony is or may be prejudicial to his client. As a former Juvenile Officer and presently Assistant District Attorney as well as the author of the abovedescribed truancy procedures memorandum, Ratliff will be called to testify not only about its contents, but about Defendant Don McBeath's knowledge about Blalack's abuses, and why McBeath--like Ratliff and others--failed to pursue prosecution of Defendant Blalack for his widely-known acts of judicial misconduct rather than share in the unlawful proceeds of the alleged corrupt conspiracy that derived its revenue directly from Blalack's unfettered violation of constitutional and civil rights as well as the laws and professional canons of the State of Texas and the United States.

d. Because of Counsel Sunny Ratliff's financial and other interests in the alleged corrupt conspiracy, Plaintiffs request the Court to review all documents she has submitted to the Court under Local Rule 13.2(a), 13.2(b)(iii), 13.2(d) with regard to possible problems associated with the initial stages of the Lawsuit, at which time a reasonable person would have known that with her knowledge and association with the court of Defendant L. J. Blalack, it was highly likely she would be called as a witness to give testimony prejudicial to the interests of her clients.

4. Plaintiffs request the Court to grant this, their Motion for Summary Judgment on the grounds that none of the Defendants included in the Court's Order has denied the alleged participatory acts nor has any of said Defendants claimed to have carried out a terminating act.

a. Federal Rules of Civil Procedure Rule 8(d) states: "Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading." Any allegation not denied by a defendant is taken by the Court to be admitted. Plaintiffs claim that no such requisite denial exists in Defendants' responsive pleadings, which deal only with motions to dismiss. The necessary pleadings were timely filed by counsel for Melissa Martin and L. J. Blalack, and were filed three days out of time by Counsel for Robert Flowers. The Court should note that in the case of Don McBeath and Lubbock County, counsel filed the requisite responsive pleading as his First Answer to Original Complaint on September 8, 1993. Plaintiffs claim this is so far out of time as to constitute failure to respond.

b. Plaintiffs claim that Defendants have superior access to the evidence because it is largely in public records, access to which Defendants and Defendants' Counsel have denied Plaintiffs. Plaintiffs contend that all burden of proof on all issues in this Lawsuit be placed upon Defendants, who have persistently, vigorously, unfairly, and contentiously defied Plaintiffs' requests for production of documents and answers to interrogatories. In Jankins v TDC Management Corp Inc. DDC 1989, 131 FRD 629, the court issued and Order precluding production of opposing evidence because of a continuous pattern of delay, refusal and obfuscation during discovery.

c. As public officials, Defendants owed Plaintiffs the duty to use care towards citizens who come before them; Plaintiffs claim that Defendants engaged instead in wilful and wanton misconduct and neglect of specific official duties entrusted to them. Plaintiffs claim that Defendants' refusal to comply with discovery notwithstanding, Plaintiffs have presented adequate evidence in the pleadings to prevail in this Lawsuit and have

clearly stated the requisite causes of action. Defendants have made no bona fides response to Plaintiffs' allegations and have refused to answer questions about relevant, material matters which Plaintiffs can show are known to Defendants.

d. Plaintiffs pray the Court to grant their Motion for Summary Judgment on the grounds that Defendants have neither produced nor claimed to be able to provide evidence to contradict any of Plaintiffs' allegations, giving Plaintiffs the right to claim to have proved the preponderance of evidence and thereby ask the Court to find in their favor.

5. Plaintiffs also request the Court to review the entire set of pleadings in this case and to take into account Plaintiff's Motions for Disqualification of Presiding Judge and for Disqualification of Counsel, grounds for both of which are based on Plaintiff's mention in the Original Complaint of injury inflicted upon Linda Ann Vega and her family by the alleged corrupt conspiracy. For example, in 1992 Presiding Judge James Cummings recused himself at the outset of Leal v Blalack et al U.S. District Court 5th Circuit Case No. 5:92-CV-19-J on the grounds that he had been previously involved in LISD litigation; in view of the fact that truancy cases and LISD were clearly indicated issues in the Original Complaint and they were the main focus of the Motion for Joinder of Linda Ann Vega and Plaintiffs' Motion for Certification of the Action as a Class Action. In Czajkowski v State of Illinois (460 FSupp 1265 Affirmed 588 F2d 839) the Court found that litigants may assert rights of third persons in cases in which the person is somehow disabled from asserting his own rights. Defendant Blalack's widely known practice of terrorizing and imprisoning those who sought to defend themselves in his court was an essential aspect of the alleged corrupt conspiracy whose participants knew their victims' lack of resources, education and political connections would impede their ability to obtain redress for violation of their rights.

6. Other matters before the Court also bear on this request, such as the application by Gerard Hennessey and Linda Ann Vega for certification of the action as a class action. As proposed

representative of members of the proposed class, Plaintiffs are under obligation not to agree or comply with any effort to remove any causes or defendants from the action because the interests of all or a subgroup of the proposed class may be adversely affected by res judicata effects.

7. Plaintiffs in the alternative request the Court to grant a stay of enforcement of the above orders until after Plaintiffs' Motion for Disqualification of Presiding Judge has been heard, until all pending appeals have been decided, and a Hearing on Motion on Compel Discovery and a Hearing on Certification of the Action as a Class Action has been completed. Rule 23 of the Federal Rules of Civil Procedure stipulates that broad scope of discovery is allowed and encouraged, so as to include all possible claimants; furthermore, accepted practice whereby stay of enforcement is normally granted in actions involving multiple issues and/or multiple parties. The Court is also mandated to consider the interests of other possible claimants.

8. Plaintiffs also hereby give notice of their Intention to Appeal the above orders to the United States Fifth Circuit Court of Appeal.

Respectfully submitted,

/s/Gerard Hennessey /s/ Linda Ann Vega

==========93-9011==========

[Document 114, filed September 13, 1993]

ORDER

This case is before the court for consideration of the third Motion for Certification of a Complaint as a Class Action, which plaintiff filed on August 19, 1993. Plaintiff has not satisfied any of the criteria for certification. Even though former Justice of the Peace Blalack is said to have mistreated each proposed claimant in some way, Gerard Hennessey's claims are not typical. The number of claimants is not sufficient to warrant certification. There are few common questions of fact or law and those questions do not predominate over questions affecting only proposed individual members. Gerard Hennessey, a pro se

litigant who proposes to represent the class, can not fairly and adequately protect the interests of any proposed class.

It is, accordingly, ordered that this third Motion for Certification of A Complaint As A Class Action is **DENIED.**

It is further, ordered that this court will not reconsider this order nor will it again consider the issue of class certification in this case.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated September 10, 1993.

/s/ SAM R. CUMMINGS
United States District Judge

[Document 132, filed September 21, 1993]

NOTICE OF APPEAL OF ORDER UPON FINAL JUDGMENT, WITH SUPPORTING BRIEF.

To the Honorable Judge of said Court:

Plaintiffs hereby give Notice of Appeal upon Final Judgment, on the following grounds:

1. Plaintiffs will appeal the Court's Order dated September 13, 1993, denying Plaintiffs' Motion for Certification of the Action as a Class Action on the grounds that:

a. Claims made by Plaintiffs on behalf of the proposed class are very similar to those of Gerard Hennessey and Linda Ann Vega. They were abused in Blalack's court, they were falsely imprisoned by him, and they suffered denial of their civil rights at the hands of Defendant Melissa Martin and others, such as Constable Dwight Lusk. Plaintiffs claim that members of the proposed class have been injured by the same corrupt conspiracy that falsely imprisoned both her and Gerard Hennessey, that subjected them to denial of their civil rights, imposed excessive fines and fees, denied them access to court records, and subjected them to defamation and abuse.

b. Prior to initial discovery, Plaintiff Hennessey has

acted on behalf of other parties including Linda Ann Vega, Carlos Leal Jr., and others; Plaintiff Hennessey specifically stated he was doing this in the Original Complaint and in the Motion for Certification of the Action as a Class Action. In Czajkowski v State of Illinois (460 FSupp 1265 Affirmed 588 F2d 839) the Court found that Federal civil rights litigants may assert rights of third persons in cases in which the person is somehow disabled from asserting his own rights. A significant aspect of Defendant Blalack's widely known abuses, particularly against minorities, was his practice of terrorizing and imprisoning those who appeared before him in his court. Details of this practice will be provided by court bailiffs, constables, secretaries, and several dozen victims, some of whom plan to petition the Court for Joinder or as Intervenors to this Action. Plaintiffs seek to assert the rights of these persons, who participants in the alleged corrupt conspiracy knew lack the resources, education and political connections to obtain redress for violation of their rights.

2. The Court has failed to consider the matter of the alleged corrupt conspiracy that, under the color of the laws of the State of Texas, as a matter of policy and procedure over an extended period of time did knowingly and intentionally deprive Lubbock citizens of rights guaranteed them under the Constitution and Laws of the State of Texas and the United States. in order to enrich a group of conspirators, including Defendants and others.

a. Plaintiff Hennessey and Petitioner Linda Ann Vega claim that Defendants participated in a greviously harmful process whereby large numbers of unrepresented, poor, uneducated minority citizens were brought into Defendant Blalack's court, where they were abused, defamed, terrorized, falsely imprisoned, assessed outrageously excessive fines (up to $18,000 for one truancy complaint) and fees (often four to ten times more than is allowed by Texas statute), and committed to custody for failure to pay fines for non-jailable offenses. Defendants were clearly aware of these abuses and, in the case of Melissa Martin, Colene Fielding and others, witnessed and actively participated in infliction of these abuses, including upon Lubbock County's most vulnerable citizens: young children,

invalids, elderly, and non-English speakers.

b. Plaintiff Hennessey and Petitioner Vega claim that revenue from these excessive fines and fees, extorted by threat of and actual imprisonment for failure to pay fine imposed for non-jailable offenses, was a major factor that fuelled the economic engine of the alleged corrupt conspiracy.

c. Once a Defendant can be shown to have taken ONE action in support of the aims of the alleged conspiracy, the Defendant assumes the burden of proof to show some other action terminating his or her participation in the conspiracy; otherwise the Defendant is equally liable with all other perpetrators for all damages and injuries caused by the conspiracy. Plaintiffs will show that others involved with or associated with the alleged corrupt conspiracy did carry out the requisite terminating acts. Plaintiff Hennessey and Petitioner Vega claim that the grievous harm of which they complain was done to them and other members of the proposed class as part of this conspiracy.

d. Obtaining and presenting evidence when a conspiracy is involved poses almost insurmountable difficulties for persons harmed by the conspiracy who take action to seek redress. This is particularly true in the case of civil rights violations, in which the full nature and extent of the damage done to citizens only becomes evident when a pattern of abuses is put together by a group of injured parties. Class actions alleging civil rights conspiracies affecting employment, housing, and voting rights of individuals powerless on their own to assemble or prosecute an action for remedy have been certified and these plaintiffs have prevailed.

3. Like Plaintiff Hennessey and Petitioner Linda Ann Vega, at least twenty other persons are known to have filed complaints, with accompanying documents and materials, against Defendant Blalack with the Texas Judicial Conduct Commission; all their complaints were dismissed at the same time without an interview or investigation. Many attempted to contact Defendant Robert Flowers and submitted requests for reconsideration of their complaints. Plaintiff claims at least twelve Lubbock citizens

support, plan to testify, and seek to join Plaintiffs' complaint against Defendant Robert Flowers.

4. Plaintiff Hennessey and Petitioner Vega were denied a fair prosecution effort by the refusal to act on their behalf by Defendants John Neal and Doug Greathouse with regard to their Ex Rel Petition for Immediate Dismissal and Removal of Judge L. J. Blalack. Refusal by Neal and Greathouse to investigate and prosecute in good faith resulted in Defendant Blalack remaining in office for at least six months longer, during which time several hundred more Lubbock citizens were subjected to deprivation of rights, imposition of excessive fines, denial of access to court records, and other abuses by Defendant Blalack and other conspirators.

Had Defendants Neal and Greahouse inspected Defendant Blalack's records, they would have found what Plaintiff Hennessey has submitted to the Court, found both by Justice of the Peace Tom Head and from Mark Welbourn: hundreds of cases of excessive fines and fees, hearing cases out of jurisdiction, commitment to custody for failure to pay fines immediately, and other serious abuses.

5. Federal Rules of Civil Procedure Rule 20 stipulates that all persons may join in one action as plaintiffs if they assert any rights to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence or series of transactions or occureences and if any question of law or fact common to all these persons will arise in the action. Class litigation provides an opportunity for a group of similarly situated persons to assert a claim when class members would otherwise forego individual suits because the cost would be disproportionate to the claims or when joinder of the parties is impracticable. Phillips Petroleum Co. v Shutts, 472 U.S. 797-809 (1985). In the case of the members of the proposed class, the common matters include:

a. False imprisonment and public abuse by Defendant L. J. Blalack

b. Swearing of false statements by participants in the conspiracy defamed and prevented citizens from exercise of rights

to which they were entitled.

c. Defendant Blalack's denial of citizens' right to present a defense and to question accusers.

d. Denial of access to court records.

e. Denial of equal protection under the law by Defendant Robert Flowers on the grounds that his dismissal and refusal to investigate legitimate complaints caused injury to continue to be inflicted upon members of the proposed class, particularly as Defendant Flowers' main duty as a public official is to protect citizens from injury brought about by judicial misconduct.

f. Denial of equal protection under the law by Defendants Neal and Greathouse on the grounds that their refusal to investigate and prosecute Plaintiffs' legitimate petition caused the same injury as in (e) above.

6. Other issues on which relief on behalf of members of the proposed class is claimed individual redress, fall within the scope of their complaint against the alleged corrupt conspiracy which facilitated and profited from the abuse and denial of rights inflicted upon them by Defendant Blalack and others. They include: use of judicial office to defame a political opponent, refusal to grant a jury trial upon request, use of judicial office to intimidate persons involved with Defendant Blalack and his family's personal affairs. The overwhelming preponderance of individuals so harmed by Defendant Blalack are minorities, mainly Hispanic and Black.

7. Plaintiffs have submitted to the Court documents and summaries based on investigations and examination of court documents and computer records that show at least 500 persons have been harmed by the alleged corrupt conspiracy. This number of persons is much too large to join to an action, even if Plaintiff were not proceeding Pro Se; certification of a class action on behalf of a similar number of individuals has been allowed in Federal Court with regard to civil rights actions on job and housing discrimination; one case was certified for a class that included only a relatively small group of school boards In re Real Estate Title & Settlement Servs. Antitrust Litigation (869 F2d

760, 3rd Cir. 1989). Furthermore, even if Plaintiffs are not found to be able to adequately represent the class of individuals, the Court should certify the class as a "headless" class action Deposit Guaranty National Bank v Roper (48 U.S.L.W. 4279 U.S. March 19, 1980) if a controversy does in fact exist.

8. The Court has not held an evidentiary hearing on the Motion for Certification of the Action as a Class Action; furthermore, discovery has not yet been completed, nor have any of the Defendants cooperated with discovery in any way. Rule 23 of the Federal Rules of Civil Procedure stipulates that broad scope of discovery is allowed and encouraged, so as to include all possible claimants. In Satterwhite v City of Greenville (578 F.2d 987, 1978), the Fifth Circuit Court of Appeals found the District Court to have erred in not conducting an evidentiary hearing before deciding on the issue of class action certification. In Goodman v Schlesinger (584 F.2d 1325, 1978) and Cox, Babcock & Wilcox Co (471 F.2d 13, 1972), even when the claims of the named plaintiffs were dismissed, denial class action certification in absence of an evidentiary hearing was vacated and remanded on grounds that the district court had acted prematurely in declining to certify the action before discovery had occurred. The court in this case was required to docket a "headless" class action until a representative plaintiff could be found. The same approach has also been used to create subclasses Basch v Talley Industries, Inc. (53 F.R.D. 14 S.D.N.Y, 1971).

9. Plaintiffs in the alternative request the Court to grant a stay of enforcement of the above orders until after Plaintiffs' Motion for Disqualification of Presiding Judge has been heard. ; furthermore, accepted practice whereby stay of enforcement is normally granted in actions involving multiple issues and/or multiple parties. The Court is also mandated to consider the interests of other possible claimants.

10. Plaintiffs also hereby give notice of their Intention to Appeal upon Final Judgment to the above orders to the United States Fifth Circuit Court of Appeal, following the "McDonald Rule" defined in United Airlines Inc. v. McDonald (432 U.S.385, 1977) and reaffirmed and extended in Deposit Guaranty National

Bank v Roper (48 U.S.L.W. 4279, Mar 19, 1980). In United States Parole Commission v Geraghty (48 U.S.L.W. 4296, Mar 19, 1980), the Supreme Court held that "An action brought on behalf of a class does not become moot upon expiration ofthe named plaintiff's substantive claim, even though class certification has been denied...when a case or controversy still exists. The question of who is to represent the class is a separate issue."

WHEREAS, premises considered, Plaintiff and Petitioner hereby respectfully advise the Court of their Intention to Appeal said Order upon Final Decision, in accordance with the "McDonald Rule" described above.

Respectfully submitted,

/s/ Gerard Hennessey /s/ Linda Ann Vega

==========93-9012==========

[Document 123, filed September 17, 1993]

ORDER

After consideration of Plaintiffs' Motion for Disqualification of Presiding Judge filed September 15, 1993, the court is of the opinion that the motion should be DENIED.

The clerk shall furnish a copy of this order to any party appearing pro se by certified mail/return receipt requested and to each attorney of recordby first class mail .

Dated September 17, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 127, filed September 20, 1993]
ORDER

After consideration of Defendants' J. Martin and Summers Motion for Security of Costs Bond filed September 16, 1993, the court is of the opinion that the motion should be GRANTED. See In re American President Lines, Inc., 779 F.2d 714, 717 (D.C. Cir. 1985).

It is, accordingly, ordered that the plaintiff, Gerard Hennessey, post bond or other security in the amount of $100.00.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated September 17, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 128, filed September 20, 1993]

ORDER

After consideration of Defendants' Neal and Greathouse Motion for Security of Costs Bond filed September 16, 1993, the court is of the opinion that the motion should be GRANTED. See In re American President Lines, Inc., 779 F.2d 714, 717 (D.C. Cir. 1985).

It is, accordingly, ordered that the plaintiff, Gerard Hennessey, post bond or other security in the amount of $100.00.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated September 17, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 129, filed September 20, 1993]

ORDER

After consideration of Defendants' Don McBeath and Lubbock County Motion for Security of Costs Bond filed September 16, 1993, the court is of the opinion that the motion should be GRANTED. See In re American President Lines, Inc., 779 F.2d 714, 717 (D.C. Cir. 1985).

It is, accordingly, ordered that the plaintiff, Gerard Hennessey, post bond or other security in the amount of $100.00.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated September 17, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 7 of 5:93-CV221C, filed September 20, 1993]

ORDER

After consideration of Defendants' Julie Martin and Patsy Summers Motion for Security of Costs Bond filed September 16, 1993, the court is of the opinion that the motion should be GRANTED. See In re American President Lines, Inc., 779 F.2d 714, 717 (D.C. Cir. 1985).

It is, accordingly, ordered that the plaintiff, Gerard Hennessey, post bond or other security in the amount of $100.00.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated September 17, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 7 of 5:93-CV226, filed September 20, 1993]

ORDER

After consideration of Defendants' Neal and Greathouse Motion for Security of Costs Bond filed September 16, 1993, the court is of the opinion that the motion should be GRANTED. See In re American President Lines, Inc., 779 F.2d 714, 717 (D.C. Cir. 1985).

It is, accordingly, ordered that the plaintiff, Gerard Hennessey, post bond or other security in the amount of $100.00.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated September 17, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 143, filed September 27, 1993]

PLAINTIFF'S MOTION TO QUASH AND VACATE ORDERS, MOTION TO STAY ENFORCEMENT OF ORDERS, MOTION FOR REVERSAL OF ORDERS WITH SUPPORTING BRIEF, AND NOTICE OF INTENTION TO APPEAL

To the Honorable Judge of Said Court:

NOW COME Plaintiff Gerard Hennessey and Petitioner to Join Linda Ann Vega, who respectfully request the Court to issue and Order to Quash and Vacate the following:

1. Order filed September 20, 1993 granting Defendants Neal and Greathouse's Motion for Security of Costs filed September 16, 1993;
2. Order filed September 20, 1993 granting Defendants McBeath and Lubbock County's Motion for Security of Costs filed September 20, 1993;
3. Order filed September 20, 1993 granting Defendants Julie Martin and Patsy Summers' Motion for Security of Costs filed September 20, 1993;

on the grounds that:

1. The Motions were not property served, in that not all defendants were served;
2. The Orders were issued three days after the Motions were filed, which did not give Plaintiff the 20 days from date of filing of a Motion for opponent to respond, as stipulated in Local Rule 5.1 (e).

In the alternative, Plaintiffs request the Court to issue an Order to Stay Enforcement of said Orders until the requisite 20 days have elapsed, to give Plaintiffs adequate time to respond.

Plaintiffs also request the Court to issue an order to Quash and Vacate the Order denying Plaintiffs' Motion for Disqualification of Presiding Judge, on the grounds that the Original Complaint set out issues involving Lubbock Independent School District truancy cases, that District Judge Sam R. Cummings is the brother of Lubbock Independent School District Trustee James Cummings, and that Judge Cummings previously

recused himself in at least one case involving complaints about LISD truancy matters because he had been involved with LISD legal matters. Judge Cummings should have disqualified himself at the outset of this Action as he did in Leal v Blalack in 1992. The basis for disqualification of a Federal Judge from a case derives from the principle of Due Process under the Fourteenth Amendment. The Supreme Court in Tumey v Ohio (273 U.S. 510, 47 S. Ct. 437, 71 L. Ed. 749; 1927) held that judges could not have an interest in the outcome of matters coming before them.

Plaintiffs hereby submit their Motion to Reverse all Orders on the grounds of Judicial Error due to Failure by Presiding Judge to Disqualify Himself on the grounds that the "impartiality might reasonably be questioned" standard set forth in 1988 by the Supreme Court in Liljeberg v Health Services Acquisition Corp. (486 U.S. 847, 108 S.Ct. 2194, 100 L.Ed. 2d 855; 1988) has clearly been violated. In that case, the judge presided in a contract litigation between two parties while at the same time being a trustee of a charitable corporation that would have gained from the outcome of the case. In the current Action, Judge Cummings is presiding over a civil rights RICO conspiracy case which, in the Original Complaint, clearly laid out the controversy and the role of LISD truancy cases in generating revenue for the alleged corrupt conspiracy. Title 28 U.S.C. §455 places the same restriction on matters involving persons within the third degree of relationship. In the absence of Judge Cummings' disqualification and reversal of all orders he has issued regarding this Action, Plaintiffs will apply to have the verdict and each judgment set aside by motion after final judgment due to the judge's connections with LISD, following procedures provided by the Supreme Court in Liljeberg.

Plaintiffs also hereby give Notice of Intention to Appeal the Orders listed above, and Notice of Intention to Appeal upon Final Judgment with regard to all orders issued by Judge Cummings for this Action.

Respectfully submitted,

/s/ Gerard Hennessey /s/Linda Ann Vega

==========93-9013==========

[Document 125, filed September 17, 1993]

ORDER

After consideration of Defendant Flowers' Motion for Summary Judgment filed June 17, 1993, the court concludes that Defendant Flowers is entitled to judgment as a matter of law because Gerard Hennessey has failed to identify a federal right violated by Defendant Flowers or to set forth any facts which can support a finding that Defendant Flowers conspired with others to deprive plaintiff of any protected right. See, Rule 56(c), Fed. R. Civ.P.

In accordance with Rule 54(b) the court determines that there is no just reason for delay in the entry of judgment.

It is, accordingly, ordered that Defendant Flower's Motion for Summary Judgment is GRANTED.

It is, further, ordered that the cause of action asserted by Gerard Hennessey against Robert Flowers be severed from this action and made the subject of a separate action, and that is proceed as such to final judgment in this court under the style of Gerard Hennessey v. Robert Flowers, and bear the docket number 5:93-CV-240-C.

It is, further, ordered that a separate judgment shall be entered in the severed cause and that the judgment be final and dispose completely of all issues between all parties in the respective suit.

Dated September 17, 1993.

/s/SAM R.CUMMINGS, United States District Judge

[Document 126, filed September 17, 1993]

ORDER

The court has granted Defendant Flowers' motion for summary judgment; therefore, his motion for protective order filed August 18, 1993, and plaintiff's motion to compel filed September 1, 1993, in response to the motion for protective order

are moot.

It is, accordingly, ordered that both Defendant Flowers' motion for protective order and plaintiff's motion to compel are DENIED.

Dated September 17, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 2 in 5:93-CV240-C, filed September 17, 1993]

JUDGMENT

By order of even date in Civil Action 5:93-CV-078-C, Plaintiff's claims against Defendant, ROBERT FLOWERS, were dismissed.

It is, accordingly, ORDERED, ADJUDGED, and DECREED that Plaintiff take nothing as against Defendant.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorny of record by first class mail.

Dated September 17, 1993.

/s/SAM R. CUMMINGS
United States District Judge

[Document 142, filed September 17, 1993]

PLAINTIFFS' MOTION TO QUASH AND STAY ENFORCEMENT OF ORDER, MOTION TO COMPEL DISCOVERY WITH SUPPORTING BRIEF, AND NOTICE OF INTENTION TO APPEAL

To the Honorable Judge of Said Court:

NOW COME Plaintiff Gerard Hennessey and Petitioner to Join Linda Ann Vega, who respectfully request the Court to issue and Order to Quash its Order dated September 17, 1993, dismissing Plaintiffs' claims against Defendant Robert Flowers, based on the following:

1. Plaintiffs have clearly shown that Defendant Flowers refused to carry out his official duty to investigate complaints about violations of civil rights of Plaintiffs and other members ofthe proposed class. When public officials, acting under the color of state law, conspire to violate citizens' civil rights, refusal to act makes each such official liable for civil damages under 24 §1983. The Court's conclusion that no violation of civil rights has been demonstrated by Plaintiffs is in error, and for this reason Plaintiffs request the court to quash its Order to Dismiss plaintiffs' claims against Defendant Robert Flowers.

2. Plaintiffs claim the Court has acted prematurely and in error, particularly in view of Plaintiff's allegations of Defendant Flowers' participation in the alleged corrupt conspiracy for which a RICO award is demanded, and documents submitted to the Court including a transcript of a tape recording in which Robert Flowers admits he did not carry out an appropriate or adequate investigation of complaints by Lubbock citizens about judicial misconduct on the part of Defendant L. J. Blalack. Rule 56(c) stipulates that the Court may render a judgment if the pleadings and evidence show there is no genuine issue as to any material fact. In view of Defendant Flowers' categorical denial of all Plaintiffs' allegations which are supported by tape recordings and documents, the Court has no basis for rendering such judgment until after discovery and the facts based on evidence have been determined by a jury. Furthermore, the Court has provided no basis for its determination that there is no just reason for delay of dismissal of Defendant Flowers under Rule 54(b); therefore, Plaintiff claims the right to move for revision of the Order and Judgment not only at this time, but also at any time before final judgment.

3. Plaintiffs have shown, through documents submitted to the Court--for example those with regard to Orville Wilmington's complaint in 1986--that Defendant Flowers refused to investigate and take action to mitigate and control the injuries inflicted upon the members of the proposed class by the alleged corrupt conspiracy, not as a single isolated instance but a matter of policy, practice and procedure over a period of at least six years.

Appended to Orville Wilmington's complaint submitted to the Judicial Conduct Commission in 1986, were documents from Lubbock Jail clearly showing he had been committed to custody in jail. Defendant Flowers' conclusion that Mr. Wilmington had not been jailed was arbitrary and contrary to all evidence submitted to him. Defendant Flowers was an essential facilitator of the alleged corrupt conspiracy, which could only continue to operate as long as Defendant Flowers continued to refuse to investigate and take appropriate action on complaints by victims of the conspiracy. As such, claims against Defendant Flowers--in particular the RICO claims based on his facilitation of and participation in the alleged corrupt conspiracy--cannot legitimately be dismissed until discovery has been completed and facts based on evidence presented in court are determined by a jury.

4. Plaintiffs have shown that:

a. Defendant L. J. Blalack, while acting under the color of the laws of the State of Texas, as a matter of policy and procedure over an extended period of time did knowingly and intentionally deprive Lubbock citizens of rights guaranteed them under the Constitution and Laws of the State of Texas and the United States in order to enrich a group of conspirators, including Defendants and others.

b. The economic engine of the conspiracy was fueled by payment of bonuses, overtime payments and other emoluments provided from revenue obtained by imposition of excessive fines and fees. Payment of these fines and fees was extorted by threat of and actual imprisonment for failure to pay fines for non-jailable offenses on the same day, from poor, uneducated, unrepresented citizens, most whom are minorities.

c. Plaintiff Hennessey was denied access to court records and abused by Defendants Blalack and Melissa Martin because of his request for such access; Plaintiff Hennessey possesses a tape recording and sworn statements to substantiate this claim. Defendant Blalack directed staff in his office and they proceeded to prepare, execute, swear and notarize false statements for the stated purpose of obstructing any investigation about his conduct toward Plaintiff Hennessey.

d. Petitioner to Join Linda Ann Vega and her family were abused, excesively fined $350 when the maximum fine should have been $25, and falsely imprisoned for five hours for failure to pay said excessive fine when they appeared in Defendant Blalack's court on a truancy case.

5. Defendant Flowers refused to investigate complaints filed with the Texas Commission on Judicial Conduct about serious misconduct; the result of this refusal was continuation of the conspiracy and injury to Lubbock citizens. Plaintiffs claim the harm done to them by Defendants was the direct effect of the alleged corrupt conspiracy, without which Defendant Blalack would have been removed from office and held accountable more than a decade before this incident, and the violations by Defendants of civil rights of hundreds of Lubbock citizens would have been prevented. Sufficient evidence exists to demonstrate that so many irregularities with regard to investigation of complaints about Defendant Blalack's misconduct as Justice of the Peace for Lubbock County Precinct 1 that inspection of Defendant Flowers' personal and official records should be part of discovery, especially because revenue from excessive fines and fees is alleged to be the fuel and binding force of the alleged corrupt conspiracy.

6. Plaintiffs claim that Defendant Flowers has refused access to requested public documents and records. When Federal District Court is called upon to pass on the merits of a case, discovery rules demand that parties be ready to disgorge all knowledge they have Burke v Fire Underwritiers Inc. (DCMo. 1958 21 FRD 583). Sanctions and preclusion of opposing evidence was imposed by the Court on the basis of continuous pattern of delay and obfuscation during discovery. Jankins v TDC Management Corp Inc. DDC 1989, 131 FRD 629. In Cruz v Estelle (1974 CA5Tex, 497 F2d496) the Court held that determination as to whether the suit should be maintained as a ciass action and whether a Pro Se plaintiff could act for the class as fairly representative of the members thereof and able adequately to protect their interests may not be taken before a hearing is held. Because the Court has not held the requisite

Hearing, the Court has ordered dismissal of Plaintiffs' claims against Defendant Flowers and inferring abandonment of Plaintiffs' Motion to Compel Discovery prematurely and in error.

7. Plaintiffs contend that their right to demand that Defendant Flowers comply with discovery is not moot, because discovery may require access to documents and answers to interrogatories from persons not party to an action.

8. Plaintiffs claim Defendant Flowers' petition for protection against discovery based on judicial and qualified good faith immunity should be denied because:

a. Plaintiffs contend that Defendant Flowers may not claim protection of prosecutorial immunity because the actions of which they complain are not related to any judicial proceeding, the criterion established by the Supreme Court in Buckley v Fitzsimmons (Case No. 91-7849, decided June 24, 1993). Furthermore, Plaintiffs have submitted to the Court prima facie evidence to support denial of qualified good faith immunity to Defendant Flowers, including the transcript of a tape recording in which Defendant Flowers admits not having carried out the investigation warranted by complaints filed with the Texas Judicial Conduct Commission by Plaintiffs and other members of the proposed class, and that the District Court is therefore in a position to determine this matter, as set out in Elliot v Perez (as cited in Defendant's motion).

b. Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided in FRCP Rule 26(b)(3). One party may discover relevant facts known or available to the other party, even though such facts are contained in a document which is not itself discoverable. Thus Defendant Flowers therefore may not avoid Plaintiffs' Request for Production of documents.

c. Once a matter has been dismissed or final judgment has been made, all court records must be made available to the public; thus Defendant Flowers may not refuse to provide details of complaints filed with the Texas Judicial Conduct Commission against him. In Saad v Safeco Life Ins. Co.

(68 F.R.D. 248, 1975) and Neugebauer v A. S. Abell Co. (77 F.R.D. 712, 1978), the Courts found that investigating agencies of the government may not retain information indefinitely and keep it from disclosure, and must provide all relevant documents and information. Because the Texas Judicial Conduct Commission has dismissed all complaints filed against Defendant Blalack, Plaintiffs assert their right to demand access to public records of all relevant records on the grounds that termination of each complaint makes it available for public scrutiny. In Yaffe v Powers (1972 CA1 Mass) 454 F2d 1362, 24 ALR Fed 864), preliminary discovery was required in a proposed class action for determining both questions of law and fact. The Court was required to allow discovery on the conduct of defendants, a group of police officers, toward members of a class. Plaintiffs claim the issues in their Motion to Compel Discovery are the same, and that Defendant's refusal to comply with discovery with regard to class action allegations has impaired Plaintiffs' ability to put essential evidence in a timely manner before the Court. Plaintiffs assert their right to demand compliance with discovery, and request the Court to sanction by written censure both Defendant and his counsel for frivolous objection to discovery.

d. Where the subject matter of a civil rights suit was broad-based continuing pattern of official abuse of citizens' rights, information in files which contain information concerning other individuals was relevant and discoverable under F.R.C.P. Rule 26(b)(1), 28 U.S.C.A. Alliance to End Repression v Rochford (75 F.R.D. 441). Plaintiffs claims that Defendant Flowers' refusal to investigate complaints about Defendant Blalack's mistreatment of other individuals in his court is highly relevant corroboration of the injuries they claim to have suffered at the hands of Defendant Flowers. Therefore, Defendant Flowers is required to give full answers to Interrogatories.

9. Plaintiffs request the Court to issue an Order to Compel Discovery upon Defendant Flowers because he has refused to respond to Plaintiffs' legitimate requests for documents and information, because his refusal to cooperate with discovery has made it difficult for Plaintiffs--who are acting Pro Se to respond

to motions, and has resulted in constructive denial of Plaintiffs' right to seek redress for injuries inflicted upon them by Defendants and the alleged corrupt conspiracy. Plaintiffs contend that Defendant Flowers' frivolous Motion for Protection against discovery was intended to prevent, delay and obfuscate discovery in violation of Federal Rules, to deny Plaintiffs their right of access to relevant documents and records.

a. Defendant Flowers has refused to provide lists of persons requested under Requests for Production. Defendant Flowers has knowledge of the information requested. In view of Counsel for Defendants Sunny Ratliff's denial of access by Plaintiffs to Lubbock County Computer Records, Plaintiffs would have considerable difficulty obtaining this information from public records.

b. When the Federal District Court is called on to pass on merits of a case, discovery rules demand that parties be ready to disgorge all knowledge they have--regardless if it is laborious, Lloyd v Cessna Aircraft Co. DCTen. 1976 434FSupp4.

c. Plaintiffs contend that, had Defendants not participated in the alleged corrupt conspiracy--one aspect of which was refusal by Defendant Flowers to investigate and prosecute numerous serious complaints over at least six years which resulted in denial of equal protection under the law--this Action would never have arisen because Defendant Blalack's abuse of public office could have been dealt with when they first came to Defendant Flowers' attention. Plaintiffs can show that this was at least as early as 1986. Since then until 1992, a longstanding and corrupt conspiracy protected Defendant Blalack from removal and liability. Plaintiffs claim that the records, documents, information and admissions requested from Defendant Flowers are relevant to the alleged corrupt conspiracy, which Plaintiff claims was a major factor in maintaining the conspiracy's harmful effects on rights of Lubbock citizens over many years. Therefore, regardless of whether Plaintiffs' claims against Defendant Flowers are dismissed, Plaintiffs claim their right to demand compliance with Discovery and the Court is requested to include in its Order to Compel Discovery specific

instruction to Defendant Flowers to make full and non-evasive responses and to supply all public records requested by Plaintiffs as of right, failing which Plaintiffs request the Court to award Plaintiffs an amount sufficient to cover the extra costs involved in investigating and obtaining copies of documents which Defendant Flowers has under his control in the form needed by Plaintiffs.

10. In the alternative, Plaintiffs request the Court to issue an Order to Stay Enforcement of said Orders until after discovery and facts at issue may be determined on the evidence by a jury, as demanded in the Original Complaint.

Plaintiffs also hereby give Notice of Intention to Appeal the above referenced Order.

Respectfully submitted,

/s/ Gerard Hennessey /s/ Linda Ann Vega

Document 3 in 5:93-CV240-C, filed September 27, 1993]

PLAINTIFFS' MOTION TO QUASH AND STAY ENFORCEMENT OF ORDER, MOTION TO COMPEL DISCOVERY WITH SUPPORTING BRIEF, AND NOTICE OF INTENTION TO APPEAL

To the Honorable Judge of Said Court:

NOW COME Plaintiff Gerard Hennessey and Petitioner to Join Linda Ann Vega, who respectfully request the Court to issue an Order to Quash its Order dated Setpember 17, 1993, dismissing Pliantiffs; claims against Defendant Robert Flowers. Plaintiff begs the Court, in the interests of avoidance of unnecessary duplication, to tkae as read the same motions as those submitted for the Original Action No. 5:93-CV078-C.

Plaintiffs also hereby give Notice of Intention to Appeal the above referenced Order.

Respectfully submitted,

/s/Gerard Hennessey /s/ Linda Ann Vega

[Document 148, filed October 4, 1993]

ORDER

After consideration of Plaintiff's Motion to Quash and Stay Enforcement of Order and Motion to Compel Discovery, filed September 27, 1993, the Court is of the opinion that the same should be DENIED.

SO ORDERED.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorney of record by first class mail.

Dated October 4, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 4 in 5:93-CV240-C, filed October 4, 1993]

ORDER

After consideration of Plaintiff's Motion to Quash and Stay Enforcement of Order and Motion to Compel Discovery, filed September 27, 1993, the Court is of the opinion that the same should be DENIED.

SO ORDERED.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorney of record by first class mail.

Dated October 4, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 149, filed October 4, 1993]

ORDER

After consideration of Plaintiff's Motion to Quash and Vacate Orders, Motion to Stay Enforcement of Orders and Motion for Reversal of Orders, filed September 27, 1993, the Court is of the opinion that the same should be DENIED.

SO ORDERED.

The Clerk shall furnish a copy hereof to any party

appearing pro se by certified mail/return receipt requested and to each attorney of record by first class mail.

Dated October 4, 1993.

/s/SAM R. CUMMINGS, United States District Judge

==========93-9015==========

[Document 140, filed September 23, 1993]

ORDER

This case is before the court for consideration of Defendant Melissa Martin's Motion to Dismiss, which was filed on June 7, 1993. After consideration of the motion, the written argument of counsel and the pro se plaintiff, and the record in this case, the court is of the opinion that the motion should be granted in part and denied in part.

Plaintiff has sued Melissa Martin in both her individual capacity and as an employee of Lubbock County for conspiring to deprive him of his civil rights. He seeks damages under 42 U.S.C. S 1983 and 18 U.S.C. S 1961, et seq. He contends that Melissa Martin has violated his constitutional rights by depriving him of access to judicial records and by conspiring to have him arrested without due process of law. He asserts that she has participated in racketeering activity.

For the purpose of a motion to dismiss pursuant to Rule 12(b)(6), this court must accept the allegations in plaintiff's complaint as true. Scheuer v. Rhodes, 416 U.S. 232, 236 (1974). Plaintiff's complaint can not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957). However, when the plaintiff cannot establish any meritorious claim under any theory proposed in his pleading, a motion to dismiss should be sustained. Nevels v. Wilson, 402 F.2d 479 (5th Cir. 1968).

This plaintiff has not himself suffered any harm from the conduct that he claims violated the RICO statute. He was not fined at all. In fact, he did not appear before Justice of the Peace Blalack as a party to a case in his court. Therefore, even

if all of his allegations regarding violations of the RICO statute are true[1], Gerard Hennessey has no standing to assert any claims for relief based upon that statute against Melissa Martin.

Mr. Hennessey asserts that he went to the office of Justice of the Peace Blalack to see some records of a former justice of the peace where Melissa Martin refused to allow him access to those records. Plaintiff contends that her refusal violated his civil rights and he has sued her under 42 U.S.C. § 1983. In order to state a claim under 42 U.S.C. § 1983, plaintiff must identify some violation of a right guaranteed him by the United States Constitution. Nothing in the Constitution of the United States establishes the right which Mr. Hennessey claims Melissa Martin violated by not allowing him to see the records. The right of access to judicial records is a common law right not found in the Constitution; it predates the Constitution.[2] Leucadia, Inc. v. Applied Extrusion Technologies, Inc., 1993 WL 221528 p.3 (3rd Cir. 1993). The deprivation of access to judicial records is not cognizable under 42 U.S.C. § 1983.

Finally, plaintiff submits that Melissa Martin conspired to deprive him of his constitutional right to liberty by participating in the events that resulted in his being handcuffed and detained for several minutes. While it is not clear that any action of Melissa Martin really led to or resulted in the actual detention, all inferences that may be drawn from the pleadings must be viewed in the light most favorable to the plaintiff. Scheuer, supra. Therefore, plaintiff has stated a claim against Melissa Martin for conspiracy to deprive him of liberty without due process of law.

Defendant says that she is entitled to absolute immunity because she was following the instructions of the justice of the peace who was acting in his judicial capacity. Alternatively, she

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But see, Ashe v Corley, 992 F.2d 540, 544 (5th Cir. 1993).

The right to inspect and to copy judicial records is not absolute. Nixon v. Warner Communications, Inc. 435 U.S. 589, 598(1978)

contends that she is entitled to qualified immunity because she was acting within the scope of her duties as an employee of a state judge. Court clerks have absolute immunity from actions for damages arising from acts they are specifically required to do under court order or at a judge's direction. Tarter v. Hury, 646 F.2d 1010, 1013 (5th Cir. 1981). They have qualified immunity from all other actions for damages. Id. Plaintiff has asserted that Melissa Martin called the deputy to arrest him. Although defendant states in her motion that she was following the judge's instruction, that is not clear from the record nor is it undisputed. Therefore, it is not possible to determine whether Melissa Martin is entitled to absolute immunity at this stage of the litigation.

Moreover, a liberal reading of the complaint at least permits the inference that her actions were malicious and in bad faith. Consequently, the court can not determine that defendant is entitled to qualified immunity based upon this record.

Pursuant to U. S.C. § 1367(c)(2), this court finds that any state law causes of action do substantially predominate over the limited claim for deprivation of liberty over which the court has original jurisdiction. Accordingly, the state law claims will be dismissed.

It is, therefore, ordered that Melissa Martin's Motion to Dismiss it GRANTED IN PART AND DENIED IN PART.

It is, further, ordered that, except plaintiff's claim of deprivation of liberty without due process of law, all claims against Melissa Martin are DISMISSED.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated September 24, 1993.

/s/ SAM R. CUMMINGS, United States District Judge

[Document 147, filed October 4, 1993]

PLAINTIFF'S MOTION TO QUASH AND VACATE ORDERS, MOTION TO STAY ENFORCEMENT OF ORDERS, MOTION FOR REVERSAL OF ORDERS WITH SUPPORTING BRIEF,

AND NOTICE OF INTENTION TO APPEAL

To the Honorable Judge of Said Court:

NOW COME Plaintiff Gerard Hennessey and Petitioner to Join Linda Ann Vega, who respectfully request the Court to issue and Order to Quash and Vacate its Orders filed September 24, 1993 granting Defendant Melissa Martin's Motions to Dismiss in part and Motion for Extension of Time to Respond to Discovery. Plaintiff makes the request with regard to the Order granting the Motion to Dismiss in part on the grounds that:

1. RICO damages may be claimed by anyone who was harmed as a result of the operation of the corrupt conspiracy. Plaintiff need not have been fined to have suffered injury--in this case, loss of liberty, prevention of Plaintiff's rightful access to public records as stipulated in Texas Open Records statutes thereby denying Plaintiff his right to equal protection under the law, defamation by swearing a false statement for which Defendant Melissa Martin is presently under grand jury indictment. As Plaintiff has stipulated throughout, excessive fines--imposed in many cases out of jurisdiction by Defendant Blalack and collected by Defendant Melissa Martin and others--were the fuel for the economic engine by which the alleged corrupt conspiracy operated for at least six years.

2. Defendant Melissa Martin, as she admitted in her own statement to Texas Ranger Jim Mull, and as demonstrated in the tape recording made at the time, refused to permit Plaintiff to see court records of a sort that, as a matter of common practice and procedure among Texas Justices of the Peace and by Texas Attorney General's Opinion, are to be made available to interested parties at all reasonable times. Defendants Blalack, Melissa Martin and others did, however, allow some persons access to these records. This violates the Constitution of the United States, whereby all persons must be afforded equal protection under the law. Defendants Blalack, Melissa Martin and others knew and intended that some persons would, in the pursuit of their legal affairs, have the advantage of materials and information in Defendant Blalack's court records while others

would not, in direct contravention of both the spirit and the letter of the constitutions and laws of the United States and the State of Texas. Many civil rights cases have been decided on the basis of evidence of denial by public officials of equal access to public records and public information about employment opportunities, promotion criteria, available housing, and voter registration hours and procedures. Selective denial of access to records of a sort commonly made available to the public by staff of the same type of court in the same county was a malicious and injurious practice carried out specifically by Defendants Blalack, Melissa Martin and other participants in the alleged corrupt conspiracy, but not by many other Lubbock County officials and staff.

3. Plaintiff claims that Defendants Blalack, Melissa Martin and others acted in such callous and wanton disregard for his rights, and this was typical of a longstanding pattern of intentional abuse and violation of civil rights of several hundred citizens, mainly minorities, that went unchecked for at least six years. Summaries and examples of evidence have already been submitted to the Court in Plaintiff's pleadings and motions; these are sufficient for the Court to determine that a cause of action exists, not only on the part of Plaintiff, but also for the other poor, uneducated, unrepresented citizens who were also grievously harmed by the alleged corrupt conspiracy. It is also on their behalf and in view of the harm done to them that Plaintiff and Petitioner to Join are pursuing this Action.

Plaintiff and Petitioner to Join also request the Court to issue an Order to Stay Enforcement of its Order granting Defendant Melissa Martin's Motion for Extension of Time to Respond to Discovery until the requisite 20 days after the Motion was filed have elapsed, to give Plaintiffs adequate time to respond to the Motion.

Plaintiffs also request the Court to issue an order to Quash and Vacate its Orders, on the grounds that the Presiding Judge is required by Federal statute to disqualify himself. Plaintiff's Original Complaint set out issues involving Lubbock Independent School District truancy cases. District Judge Sam R. Cummings is the brother of Lubbock Independent School District

Trustee James Cummings, and Judge Cummings previously recused himself in at least one case involving complaints about LISD truancy matters because he had been involved with LISD legal matters. Judge Cummings should have disqualified himself at the outset of this Action as he did in Leal v Blalack in 1992. The basis for disqualification of a Federal Judge from a case derives from the principle of Due Process under the Fourteenth Amendment. The Supreme Court in Tumey v Ohio (273 U.S. 510, 47 S. Ct. 437, 71 L. Ed. 749; 1927) held that judges could not have an interest in the outcome of matters coming before them.

Plaintiffs hereby submit their Motion to Reverse all Orders on the grounds of Judicial Error due to Failure by Presiding Judge to Disqualify Himself on the grounds that the "impartiality might reasonably be questioned" standard set forth in 1988 by the Supreme Court in Liljeberg v Health Services Acquisition Corp. (486 U.S. 847, 108 S.Ct. 2194, 100 L.Ed. 2d 855; 1988) has clearly been violated. In that case, the judge presided in a contract litigation between two parties while at the same time being a trustee of a charitable corporation that would have gained from the outcome of the case. In the current Action, Judge Cummings is presiding over a civil rights RICO conspiracy case which, in the Original Complaint, clearly laid out the controversy and the role of LISD truancy cases in generating revenue for the alleged corrupt conspiracy. Title 28 U.S.C. §455 places the same restriction on matters involving persons within the third degree of relationship. In the absence of Judge Cummings' disqualification and reversal of all orders he has issued regarding this Action, Plaintiffs will apply to have the verdict and each judgment set aside by motion after final judgment due to the judge's connections with LISD, following procedures provided by the Supreme Court in Liljeberg.

Plaintiffs also hereby give Notice of Intention to Appeal the Orders listed above, and Notice of Intention to Appeal upon Final Judgment with regard to all orders issued by Judge Cummings for this Action.

Respectfully submitted,

/s/ Gerard Hennessey /s/ Linda Ann Vega

[Document 152, filed October 5, 1993]

ORDER

After consideration of Plaintiff's Motion to Quash and Vacate Orders, Motion to Stay Enforcement of Orders and Motion for Reversal of Orders, filed October 4, 1993, the Court is of the opinion that the same should be DENIED.

SO ORDERED.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorney of record by first class mail.

Dated October 5, 1993.

/s/SAM R. CUMMINGS, United States District Judge

==========93-9092==========

[Document 181, filed November 8, 1993]

ORDER

Plaintiff's Motion to Compel Discovery, for Recovery of Unnecessary Discovery Costs and for Extension of Time to Join Parties and Amend Pleadings filed on October 12, 1993, as a part of Plaintiff's Response to Defendant Don McBeath's Motions for Extension of Time to Respond to Discovery and to Quash Plaintiff's Discovery Requests has no merit.

It is, accordingly, ordered that the motion is DENIED.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, Gerard Hennessey, who is proceeding pro se, and by first class mail to each attorney of record.

Dated November 8, 1993.

/s/ SAM R. CUMMINGS, United States District Judge

[Document 182, filed November 8, 1993]

ORDER

After consideration of the Motion to Quash Plaintiff's

Discovery Requests to Defendant Don McBeath or in the Alternative, Motion to Extend Time to Respond to Discovery, which was filed on September, 22, 1993, the court is of the opinion that the Motion to Quash should be granted.

All other relief requested is denied.

IT IS SO ORDERED.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated November 8, 1993.

/s/ SAM R. CUMMINGS
United States District Judge

[Document 185, filed November 15, 1993]

PLAINTIFFS' MOTIONS TO QUASH AND STAY ENFORCEMENT OF ORDERS AND FOR A HEARING ON ISSUES OF DISCOVERY WITH SUPPORTING BRIEF AND NOTICE OF INTENTION TO APPEAL

To the Honorable Judge of said Court:

1. Now come Plaintiffs who respectfully request the Court to quash and stay enforcement of the following orders, and to grant a hearing on issues of discovery, on the grounds that the Court's orders have the effect of preventing Plaintiffs from access to records and information to which Plaintiffs are entitled under discovery as defined in the Federal Rules of Civil Procedure:

- Order granting Defendant Don McBeath's Motion to Quash Plaintiff's Discovery Requests to Defendant Don McBeath, filed November 8, 1993.
- Order denying Plaintiff's Motion to Compel Discovery of Defendant Don McBeath filed November 8, 1993.
- Order denying Plaintiff's Motion for Admission as True All Unanswered Requests for Admission from

Defendant L. J. Blalack by Plaintiffs, filed November 2, 1993.

2. In the process of discovery under Rules 30-37 of the Federal Rules of Civil Procedure and the Racketeer Influenced Corrupt Organizations Act, Plaintiffs have requested access to records, lists of persons having carried out specific acts involved in the alleged corrupt conspiracy, lists of Lubbock County employees and their income, and requests for admission by Defendants Blalack and Don McBeath. Many of the records requested, as well as much of the information, is listed as material mandated for public access under the Texas Open Records Act. Plaintiffs have yet to receive computer printouts which they requested from Sunny Ratliff of Lubbock County three months ago. Defendant Lubbock County's latest excuse is that "the computer is down", although during this period Defendant Lubbock County is known to have carried out normal computer operations.

3. Defendant Blalack has provided evasive and untruthful answers, which amount to refusal to answer Plaintiffs' Requests for Admission included in their Interrogatories submitted to Defendant Blalack on July 26, 1993. These Requests for Admission all relate to events and actions that occurred during the period January 1975 to September 1992 during which Defendant Blalack held office as Justice of the Peace for Lubbock County Precinct 1 Court 1. They have to do with the number and nature of complaints against Defendant Blalack regarding official misconduct, official oppression, imposition of excessive fines, imprisonment for failure to pay a fine for a non-jailable offence, and other abuses. Rule 36(a) stipulates: "An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny."

Nor can Defendant Blalack claim immunity from self-incrimination under the Fifth Amendment, as that is only for a criminal rather than civil action; furthermore, Rule 36(b) specifies that any admissions he might make are protected: "Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission for any other purpose nor may it be used against the party in any other proceeding."

4. Plaintiffs claim that Defendant Blalack's answers to their Requests for Production are evasive and should therefore be compelled to produce the lists requested. His answers are appended. Even if the lists do not exist in exactly the form and content requested, this information is still discoverable and Defendant should be required to produce the information and documents he does have and information he does know. In the requested hearing Plaintiffs will not only apply for sanctions against Defendants Blalack and McBeath, but also against their attorneys James Gorsuch and Sunny Ratliff for assisting Defendants to prepare and submit known false statements to Plaintiffs in discovery answers and to the Court in affidavits, copies of which are appended.

5. When, despite Plaintiffs' efforts, discovery is not allowed to proceed in a fair and expeditious manner the outcome of the entire Action is subject to review on appeal. Plaintiffs respectfully request the Court to reconsider its Orders. Not only Federal but also Texas courts have consistently found in favor of as broad an exploration of the facts by discovery as possible in order to determine the truth. For example, in West v Solito (563 S.W. 2d 240, Tex. 1978), the Texas Court of Appeals admonished the party refusing to cooperate with discovery: "At the very heart of our system of jurisprudence is truth. The purpose of discovery proceedings is to allow parties to obtain the fullest possible knowledge of the issues and facts prior to trial."

In Tucker v Gayle (709 S.W.2d.249), the Court also held: "When relevant and material facts, documents or communications are peculiarly within the knowledge, control or custody of the defendant, his agents or representatives, the right to discovery becomes more important and necessary to our judicial system."

6. In cases such as the current Action that involve allegations of conspiracy--particularly those in which RICO claims are involved, broader scope for discovery is allowed because of the covert nature of conspiracy, Carter v State (59 S. Ct. 71, 305 U.S. 557, 83 L.Ed. 351). Previous acts and declarations tending to throw light upon circumstances of a conspiracy or the motive with which it was committed is discoverable and admissible against all conspirators, whether tried jointly or separately Young v State (201 SW 2d. 46, 1947). One of the major claims that Plaintiff Hennessey has made against Defendants Blalack, Melissa Martin, Julie Martin, Patsy Summers, Lyn Duval, Diana Holloman, and Rose Marie Chivers is that they intentionally prepared, executed, swore and notarized false statements that harmed Plaintiff Hennessey's reputation. Plaintiff Hennessey can also show that the purpose of taking his good name from him was to benefit Defendant Blalack by enabling him to obstruct two investigations into his conduct by the State of Texas: one by Defendants John Neal and Doug Greathouse, and the other by Defendant Robert Flowers. Where circumstances show a positive agreement from overt acts to fraudulently deprive an owner of his property with a value over $50 for the use or benefit of the taker or another, this is enough to support a conviction for conspiracy to commit felony theft Farrington v State (489 SW2d 607, 1972). Plaintiff claims his good name and credibility are worth more than the threshold amount of $50, and that the false statements have cost him thousands in legal and investigative costs to seek redress for the injuries done to

him. Furthermore, any person who witnesses or is aware of a felony and fails to report can him(her)self be convicted of misprision of a felony. Any of these criminal acts can be the one act or inaction by which a person incurs civil liability for participation in a conspiracy. Plaintiffs' discovery requests aim to obtain evidence to enable a Trier of Fact, not a judge, to determine whether the alleged conspiracy did exist and whether it did harm to Lubbock citizens including Plaintiffs.

7. Discovery rights with regard to personnel files in civil rights cases is well established. In Elliott v Webb (98 F.R.D. 293), a civil rights action, the Court found that factual portion of personnel files of police officers who were alleged to have violated complainants' constitutional rights were discoverable on request by complainants for production of documents. Plaintiffs' request for discovery was granted by the Court where the subject matter of a civil rights suit was a broad-based conspiracy carrying out a continuing course and pattern of overt and covert governmental action against persons and organizations engaged in lawful activities; statistical data concerning the scope of the operation and documents recording such operations as well as those concerning interagency cooperation were relevant and discoverable Alliance to End Repression v Rochford (75 F.R.D. 411). Plaintiffs have shown that Defendant Blalack, as presiding Justice of the Peace for Precinct One of Lubbock County from 1977 to 1992 and as the alleged kingpin of the alleged corrupt conspiracy, possesses relevant and discoverable documents and knowledge about his actions and his collaboration with other Lubbock County officials. Plaintiffs also claim that Defendant Don McBeath, as County Judge responsible for financial and administative matters on behalf of Defendant Lubbock County and as former official in the office of the District Attorney for Lubbock County, possesses information and documents relevant to this Action, discovery of which Plaintiffs are entitled.

8. Because Plaintiffs are proceeding Pro Se. they rely much more than counsel upon the guidance of the Court and therefore respectfully request the Court to explain the basis for its orders and decisions, specifically the Court's findings in fact and/or law and the reasons why the Court finds Plaintiffs' motions without merit.

9. Plaintiffs also respectfully request the Court for Sanctions against Defendants who refuse to comply with discovery requests, including by providing evasive and untruthful answers under discovery to Plaintiffs and in affidavits to the Court; Plaintiffs request award of those costs to depose witnesses and carry out protracted investigations that Plaintiffs can show were incurred because of said refusal to respond, untruthful answers, and evasion.

10. Plaintiffs hereby also give the Court notice of their Intention to Appeal said Orders, on the grounds that granting of defendants' motions for protective orders and denial of Plaintiffs' motions to compel discovery have the effect of disposing of major aspects of their Action because this prevents Plaintiffs from being able to present relevant documents and information to the Trier of Fact in order to arrive at the truth, and that this allows Defendants to deny relevant facts and imposes an undue and unfair burden upon Plaintiffs contrary to Rules 30-37 of Federal Rules of Civil Procedure. Plaintiffs also claim that the Court's orders should be vacated because they involve Lubbock Independent School District truancy cases, and that the Presiding Judge Sam Cummings should be disqualified because his brother James Cummings is a member of the LISD Board of Trustees.

Respectfully submitted,

/s/Gerard Hennessey /s/Linda Ann Vega

[Document 188, filed November 15, 1993]

ORDER

After consideration of Plaintiff's Motions to Quash and Stay Enforcement of Orders and for a Hearing on Issues of Discovery with Supporting Brief and Notice of Intention to Appeal, filed November 13, 1993, the Court is of the opinion that the same should be DENIED.

SO ORDERED.

The clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested, and by first class mail to each attorney of record.

Dated November 15, 1993.

/s/SAM R. CUMMINGS, United States District Judge

==========93-9123==========

[Document 168, filed October 26, 1993]

ORDER

After consideration of the Motion to Quash Plaintiff's First Set of Interrogatories to Defendant Melissa Martin, for Protective Order and to Stay Discovery, which was filed on September 15, 1993, by Defendant Melissa Martin, the court is of the opinion that the Motion to Quash the interrogatories should be granted and that discovery at this stage of the litigation should relate only to the immunity issues remaining in this case.

IT IS SO ORDERED.

All other relief requested is denied.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated October 26, 1993.

/s/SAM R. CUMMINGS, United States District Judge

Document 169, filed October 26, 1993]

ORDER

On this day came on for consideration the Combined Motion for Second Extension of Time to Respond to Discovery Requests from Plaintiff by Defendant Melissa Martin, filed October 15, 1993. Because discovery has been limited and the first set of interrogatories quashed, the Court finds that the motion for extension of time should be denied as moot.

SO ORDERED.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

Dated October 26, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 186, filed November 15, 1993]

PLAINTIFFS' RESPONSE TO ORIGINAL ANSWER OF DEFENDANT MELISSA MARTIN

To the Honorable Judge of Said Court:

Now come Plaintiffs who respectfully submit their response to the Original Answer of Defendant Melissa Martin filed on October 14, 1993, as follows:

1. Defendant Melissa Martin claims in §1 that she has no knowledge of allegations of fact directed toward any of the other defendants. Plaintiffs claims this statement is untruthful and that Defendant Melissa Martin knows it to be untruthful as does her counsel T. Dale Jones, in that:

a. Defendant Melissa Martin, by her own sworn statement to Texas Ranger Jim Mull, assisted other members of Defendant Blalack's staff, particularly Defendant Rose Marie Chivers, to intentionally prepare, execute and swear the false statements about Plaintiff Hennessey's conduct in Defendant Blalack's court.

b. Defendant Melissa Martin notarized the false statements of Defendants Rose Marie Chivers and Diane Holloman that they prepared, executed, and swore on April 9,

1991.

2. Plaintiffs claim that Defendant Melissa Martin, contrary to her assertion in §5, knowingly and intentionally conspired with Defendant Blalack and others to deprive Plaintiff Hennessey and Petitioner to Join Linda Ann Vega of their constitutional rights as follows:

a. On January 3, 1990, Defendant Melissa Martin prepared an order for the imprisonment of Petitioner to Join Vega for failure to pay an excessive truancy fine, which is a non-jailable offense. Defendant Melissa Martin also falsely informed Petitioner Vega that Defendant Lubbock County offered no work release when in fact it did. Petitioner Vega contents that Defendant Melissa Martin carried out these acts in order to further the goal of the alleged corrupt enterprise to extort funds unlawfully from Lubbock citizens who came before Defendant Blalack. Imposition and collection of excessive fines violates the Constitutions and laws of the United States and the State of Texas and is a criminal offense of extortion which Defendant Melissa Martin and others committed against at least 500 Lubbock citizens. Furthermore Defendant Melissa Martin used the United States mails to facilitate the extortion operation.

b. On April 9, 1991, Defendant Melissa Martin denied Plaintiff Hennessey access to court records, abused him, and referred him to Defendant Blalack because he had insisted on his right to inspect court records. In her sworn statement to Texas Ranger Jim Mull, Defendant Melissa Martin stated that she refused to consider Plaintiff's request because of Defendant Blalack's instructions. This is corroborated by Defendant Melissa Martin's Affidavit of Melissa Martin in Opposition to Plaintiff's Motion for Summary Judgment filed November 4, 1993, which is appended.

3. Defendant Melissa Martin's denial in §6 is refuted by the tape recording made during the incident on April 9, 1991. Defendant Melissa Martin witnessed Defendant Blalack's arrest and abuse of Plaintiff Hennessey. Bailiff Jay Helton's sworn statement indicates that he received a telephone call from her "to arrest someone", i.e. Plaintiff Hennessey; when Helton arrived in

Defendant Blalack's court, reporter Mike Erickson was being abused and threatened by Defendant Blalack. Defendant Melissa Martin interrupted this, telling Defendant Blalack he had the wrong person, pointing to Plaintiff Hennessey who was then called to the bench, arrested and abused by Defendant Blalack. Plaintiffs claim Defendant Melissa Martin cannot deny knowledge of an incident in which she participated and which she witnessed at close quarters.

4. Plaintiffs will present testimony from Texas Ranger Jim Mull that Melissa Martin told him that she had prepared and sworn dozens of false statements about other Lubbock citizens, and that she asked him how she could retrieve them from Defendant Blalack. Defendant Melissa Martin did intentionally prepare, execute and swear, and Defendant Patsy Summers did notarize a false statement about Plaintiff Hennessey's conduct in a supermarket, a copy of which is appended.

5. Defendant Melissa Martin has no basis to deny Paragraphs 14 and 15, as they deal with jurisdiction. If she claims the Court does not have jurisdiction, she should state this in clear terms for the Court to determine.

6. Defendant Melissa Martin has no basis for claiming in §12 that there are no injured parties from her own actions, nor can she make such a claim on behalf of Defendant Blalack and the other defendants.

7. Defendant Melissa Martin, as a clerk in Defendant Blalack's court, has been observed by Petitioner to Join Linda Ann Vega, in her capacity as legal secretary to James Brennan, carrying out the functions that she denies in §14. Testimony from other persons who have worked in, around and near Defendant Blalack's office, including Vince Gonzales, Grady Simmons, Jim Hansen, Jay Helton, Arthur Hetler, and Tammi Pisarski, will be presented to establish the functions Defendant Melissa Martin was observed carrying out in Defendant Blalack's office. Furthermore, Defendant Melissa Martin will be deposed and will also be required to swear on oath in Court about the functions she carried out.

8. Defendant Melissa Martin has no basis to deny in §15 the

functions that Plaintiffs allege she carried out as Justice of the Peace for Precinct 1 in Lubbock County. Defendant Blalack has been observed carrying out these functions, and they have been reported in the media, including in a lengthy profile of Defendant Blalack published in 1985 which is appended. Furthermore, she describes these functions in her Affidavit in Opposition to Plaintiff's Motion forSummary Judgment filed November 4, 1993, which is appended.

9. Defendant Melissa Martin has no basis to deny in §16 the events that are alleged to have taken place on April 9, 1991. The incident was recorded on tape, and the Original Complaint provided her with a transcript of that tape. Sworn statements prepared by Bailiff Jay Helton and reporter Mike Erickson corroborate Plaintiff Hennessey's version of events, as do the sworn statements made to Texas Ranger Jim Mull by Melissa Martin herself, Julie Martin, Tami Pisarski, and Rose Marie Chivers.

10. Testimony will be provided to show that, contrary to her denial in §18, Defendant Melissa Martin witnessed and participated in some of the abuses inflicted by Defendant Blalack upon other Lubbock citizens.

11. Sufficient evidence has already been submitted to the Court to show that Defendant Melissa Martin, contrary to her denials in §19 and 20, has carried out the unlawful acts that Plaintiffs allege, and sufficient reference has been made to constitutional, statute and case law to clearly show her liability to Plaintiffs for her unlawful actions that injured them. Plaintiffs can show that the damages sought are reasonable and customary in civil rights conspiracy and RICO cases.

12. Plaintiffs can show that, contrary to Defendant Melissa Martin's denials in §22, they have in fact exhausted every state remedy. Grand Jury indictments that Defendant Melissa Martin denies in §22 are appended. Plaintiffs filed these, and their petition for removal of Defendant L. J. Blalack from office, with the Original Complaint, to which Defendant Melissa Martin and the Court are directed. Plaintiffs, in their Notes on Immunity filed with the Court on November 1, 1993, extend their discussion

of immunity that is covered in summary in paragraph 53; Plaintiffs have also elaborated on conspiracy issues in Paragraph 55 in their motions and responses submitted to the Court; these matters are presently before the Fifth Circuit Court of Appeals. Plaintiffs can show that the damages sought have been awarded other complainants in civil rights conspiracy cases, particulary those invoking RICO.

13. Plaintiffs are entitled to the costs they have incurred in seeking remedy, which have been substantially increased as a result of Defendant Melissa Martin's numerous false and conflicting statements, contrary to Defendant Melissa Martin's denial in §23.

14. Plaintiffs have provided evidence, and will provide further evidence and testimony by Texas Ranger Jim Mull and others, that Defendant Melissa Martin did conspire with others to deny Lubbock citizens their rights, to falsely imprison them, to extort money from them, and to aid in the misuse Lubbock County property for private gain, contrary to her denial in §24 and 25.

15. Under Article 7 of the Constitution of the United States and according to Rule 38 of the Federal Rules of Civil Procedure, any party may demand a jury trial, which Plaintiffs have done in their Original Complaint. Rule 38 stipulates that such demand is all that is required for the Action to be docketed as a jury action, and that once demanded, it may not be withdrawn without consent of the parties. Thus Defendant Melissa Martin has no basis for her denial of Plaintiffs' demand for jury trial in §26.

16. Defendant Melissa Martin has no basis for her claim in §27 of "quasi" judicial immunity because in both incidents affecting Plaintiffs, she was carrying out administrative tasks: in the case of Plaintiff Hennessey, she responded to his request for access to a court record; in the case of Petitioner to Join Linda Ann Vega, she was attempting to collect a fine. Nor does her alternative claim of qualified immunity in §28 meet the test of acting reasonably and in good faith. In the case of the incident regarding court records on April 9, 1991, she knew that her actions were wrong; otherwise she would not have included in her

admitted false statement that she would have provided Plaintiff Hennessey access to said records if they had been available. In her sworn statement to Texas Ranger Jim Mull, she stated that she was acting under instructions of Defendant Blalack not to allow access to any court records without his approval. In the case of the incident regarding the false imprisonment of Petitioner to Join Linda Ann Vega, Defendant Melissa Martin knew her actions were for the purpose of extorting money; otherwise she would have admitted to Petitoner Vega that work release was available, and she would not have carried out the procedures involved in taking Petitioner Vega into custody for failure to pay a fine for a non-jailable offense.

17. Ample evidence exists to show that not only did Defendant Melissa Martin participate in the alleged corrupt conspiracy, but also she intentionally violated civil rights of Lubbock citizens and obviously relished the power she wielded over them. Contrary to her denial in §29, Defendant Melissa Martin can be shown by the tape recording of the incident on April 9, 1991, and by the testimony of dozens of Lubbock citizens, journalists, other court employees, attorneys, and other individuals who had reason to do business with Defendant Melissa Martin, to have abused their rights and denied them services and functions normally provided in similar Justice of the Peace courts in Lubbock County and in other counties in the State of Texas. Defendant Melissa Martin's conspiracy with Defendant Blalack and his staff to violate Plaintiff's constitutional rights is well documented by her own statements. The harm done to Plaintiff Hennessey by Defendant Melissa Martin's false statements and those of other members of Defendant Blalack's Court with whom she conspired was substantial; it prevented him from pursuing his right of redress under the laws of the State of Texas, and it caused permanent harm to Plaintiff's reputation in an amount greater than $50, the threshold amount for felony conspiracy. Where circumstances show a positive agreement from overt acts to fraudulently deprive an owner of his property with a value over $50 for the use or benefit of the taker or another, this is enough to support a conviction to commit felony theft

Farrington v State (489 SW2d 607, 1972). Because she did this in concert with other members of Defendant Blalack's staff, who also have admitted preparing false statements, and at the direction of Defendant Blalack, she is liable not only for felony prosecution as a co-conspirator for the harm the corrupt conspiracy has inflicted upon Plaintiff Hennessey but also upon over 500 other Lubbock citizens. As a participant in the conspiracy with knowledge of this and other felonies committed by the conspiracy, she is also liable for misprision of a felony.

18. Plaintiffs are clearly entitled to remedy against Defendant Melissa Martin as a public official acting under the color of state law who violated their civil and constitutional rights under 42 U.S.C. §1983. In equity, Plaintiffs have suffered harm at the hands of a public official entrusted with powers to be exercised for the public good. Defendant Melissa Martin, in conspiracy with Defendant Blalack and others, appropriated these powers for her own purposes and those of the corrupt conspiracy in which she participated. Without the active particpation of Defendant Melissa Martin, Defendant Blalack and the other conspirators would not have been able to carry on their corrupt activities so long or so pervasively. As a key player in the alleged corrupt conspiracy, Defendant Melissa Martin is not only liable for damages contrary to her denial in §30, but the false statements she prepared and instructed others to prepare had the effect of obstructing two State of Texas investigations, either of which would have provided the relief that Plaintiffs originally sought, viz. removal of Defendant Blalack from office and public repudiation of his unlawful and abusive acts. Because Defendant Melissa Martin's actions constributed substantially to the failure of state remedy, she is responsible for the costs involved in this Action. Although she also denies this intent in her Affidavit in Opposition to Plaintiff's Motion for Summary Judgment filed November 4, 1993, in her sworn statement to Texas Ranger Jim Mull, also appended, she admitted that she prepared, executed and swore the false statement about Plaintiff Hennessey in order to protect Defendant Blalack in the event of an investigation by the Judicial Conduct Commission. Defendant Melissa Martin has

demonstrated clear intent to deprive Plaintiff of redress by State remedies, exhaustion of which has brought about the present Action in Federal court.

Plaintiffs respectfully request the Court to grant their Motion for Summary Judgment on grounds that Defendant Melissa Martin has provided no effective response to Plaintiffs' Complaint..

Respectfully submitted,

/s/Gerard Hennessey /s/Linda Ann Vega

Document 189, filed November 15, 1993]

ORDER

After consideration of Plaintiff's Response to Original Answer of Defendant Melissa Martin, filed November 15, 1993, the Court is of the opinion that the same should be STRICKEN. See Fed. R. Civ. P. 7(a).

SO ORDERED.

The clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested, and by first class mail to each attorney of record.

Dated November 15, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 190, filed November 16, 1993]

ORDER

Came on for consideration Plaintiff's Request for Permission to Reply to Defendants McBeath's and Chivers' Responses and Motion for Sanctions Against Defendants and Their Counsel, filed November 15, 1993. Concerning Plaintiff's Request for Permission to Reply to Defendants McBeath's and Chivers' Responses, the Court advises Plaintiff that leave of court is not required to file a timely reply. See Local Rule 5.1(f). concerning Plaintiff's Motion for Sanctions Against Defendants and Their Counsel, the Court is of the opinion that the same should be DENIED.

SO ORDERED.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorney of record by first class mail.

Dated November 15, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 198, filed November 29, 1993]

MOTION TO QUASH AND STAY ENFORCEMENT OF ORDERS STRIKING PLAINTIFFS' REPLY TO MELISSA MARTIN'S ORIGINAL RESPONSE, DENYING PLAINTIFFS' MOTION FOR SANCTIONS AGAINST MELISSA MARTIN AND HER COUNSEL DALE JONES, AND DENYING PLAINTIFFS' MOTION FOR A HEARING ON DISCOVERY, WITH NOTICE OF INTENTION TO APPEAL.

To the Honorable Judge of Said Court:

Now come Plaintiffs who respectfully request the Court to reconsider, to quash and stay enforcement of the following Orders on the grounds that each of the above orders has the effect of disposing of a major aspect of the Action, and that each order deprives Plaintiffs of substantial ability to proceed:

1. November 16, 1993 Denying Plaintiffs' Motion for Sanctions against Defendant Melissa Martin and her Counsel: Defendant Melissa Martin and her Counsel have filed motions and affidavits that contradict her own sworn statements that were filed with the Original Complaint. Furthermore, Melissa Martin's counsel contends that her sworn statement dated April 9, 1991 was not sworn although on October 5, 1993, Lubbock County Court-at-Law Judge Will Dodson determined that her statement was a legal document because it was notarized and sworn before a Notary Public in and for the State of Texas. Knowing this, Melissa Martin and her counsel filed their Combined Response and Supporting Brief of Defendant Melissa Martin to Plaintiff's Motion for Summary Judgment with the Court on November 4, 1993; in this document and Defendant Melissa Martin's appended

Affidavit, they have sought to mislead the Court by claiming her statement of April 9, 1991 was not a sworn document and was not intended to be submitted to the Texas Judicial Conduct Commission. Melissa Martin's own sworn statement to Texas Ranger Jim Mull states that Defendant Blalack specifically mentioned the purpose of his request for false statements from his office staff was in order to prevent action against him by the Texas Judicial Conduct Commission. Those statements were used by Defendant Blalack and others to materially interfere with Plaintiff Hennessey's ability to seek redress for injuries done him and his civil and constitutional rights by Defendants. The Court's denial of sanctions against Melissa Martin and her counsel Dale Jones prejudices Plaintiff's position in that the Court has not held Defendants and their counsel to the good faith standard set forth in Rule 11 of Federal Rules of Civil Procedure and Rule 2.1(f) of Local Rules. Plaintiffs therefore request the Court to reconsider its Order.

2. November 15, 1993 Denying Plaintiffs' Motion for a Hearing on Issues of Disovery. The Court's denial of access by Plaintiffs to normal discovery processes and procedures unfairly prejudices Plaintiff's ability to elicit answers to questions and to obtain documents in the possession or under the control of Defendants who, as public servants, would normally be required to provide these answers and documents to members of the press and public. Plaintiffs seek a Hearing so that the Court may reconsider the issues involved in the Court's wholesale denial of discovery requests, and its prejudicial effect upon Plaintiffs' Action. This is particularly relevant in view of the Court's Order to Compel Discovery that required Plaintiffs to obtain material from public records in the possession and control of Defendants, yet the Court denied Plaintiffs' Motion to Compel Discovery for these same items that were also requested by Plaintiffs; these items and this information is in the possession of Defendants, not Plaintiffs.

3. November 15, 1993 Striking Plaintiffs' Response to Defendant Melissa Martin's Original Answer. Plaintiffs respectfully request the Court to strike Defendant Melissa

Martin's Original Answer because it was filed with the Court on October 14, 1993, almost five months after the Original Complaint was served on May 17, 1993. Rule 12 in Federal Rules of Civil Procedure specifies that a Defendant shall serve an answer within 20 days after the service of the summons. Failing this, Plaintiffs request the Court to reconsider its Order and allow Plaintiffs to respond to Melissa Martin's Original Answer, because it contains assertions that are in substantial conflict with Defendant Melissa Martin's previous sworn statements, which were filed with the Original Complaint. Given that Defendant Melissa Martin is under criminal indictment in Lubbock County Court for perjury regarding her sworn statements in this action, it is clear that the matters of her role in the corrupt conspiracy, her actions, and the veracity of her statements focus on major issues of contested fact. Plaintiffs claim that the issue of credibility of Defendant Melissa Martin is central to this action, and that Plaintiffs should be given more than usual latitude to challenge assertions she submits in pleadings filed with the Court.

Plaintiffs also hereby give their Notice of Intention to Appeal the above Orders.

Respectfully submitted,

/s/Gerard Hennessey /s/Linda Ann Vega

==========94-10034==========

[Document 196, filed November 24, 1993]

ORDER

After consideration of the Motion for Extension of Time for Filing of Amended Pleadings and Joinder of Parties, alternatively, Motion for Leave to Amend Complaint filed November 1, 1993, the court is of the opinion that the motion should be **DENIED.**

IT IS SO ORDERED.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

/s/ SAM R. CUMMINGS
United States District Judge

[Document 197, filed November 24, 1993]

ORDER

After consideration of the Motion for Summary Judgment filed October 15, 1993, the court concludes that the motion has no merit and should be **DENIED.**

IT IS SO ORDERED.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing pro se, and by first class mail to each attorney of record.

/s/ SAM R. CUMMINGS, United States District Judge

[Document 201, filed November 30, 1993]

ORDER

This case is before the court for consideration of the Motion for Summary Judgment filed October 15, 1993, by Defendant Melissa Martin. After consideration of the motion, the written argument of counsel and the pro se plantiff, the affidavits submitted by the parties, and the record in this case, the court is of the opinion that the motion should be **GRANTED.**

Summary judgment is appropriate when the record reflects that there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law. Rule 56(c), Fed.R.Civ.P. When a motion for summary judgment is made and supported as provided in Rule 56, the opposing party may not rest upon mere allegations or denials, but must set forth specific facts by affidavit or otherwise as provided in the rule showing that there is genuine issue for trial . Rule 56(e), Fed.R.Civ.P. Melissa Martin has moved for summary judgment, has supported her motion properly with affidavits, and has established that she is entitled to judgment as a matter of law. Although plaintiff argues that she is not entitled to judgment, he has not submitted any admissible evidence to controvert any material issue of fact.

All of plaintiff's claims against this defendant except his claim for deprivation of liberty without due process of law were

dismissed on September 24, 1993. Defendant Melissa Martin asserts that she is entitled to absolute quasi-judicial immunity from plaintiff's claim against her for damages resulting from the incident in Justice of the Peace Blalack's courtroom on April 9, 1991. Court clerks have absolute immunity from actions for damages arising from acts they are specifically required to do under court order or at a judge's direction. Tarter v. Hury, 646 F.2d 1010, 1013 (5th Cir. 1981). The affidavits of both Melissa Martin and Defendant Blalack establish that Melissa Martin was acting solely under the judge's direction. Although plaintiff has attemped to cloud the issue with argument and innuendo, he has submitted no admissible evidence to controvert those of defendant which state that Melissa Martin was following the judge's direction.

It is, accordingly, ordered that the cause of action asserted by Gerard Hennessey against Melissa Martin be severed from this action and made the subject of a separate action, and that it proceed as such to final judgment in this court under the style of Gerard Hennessey v. Melissa Martin, and bear the docket number 5-93CV0305-C.

It is, further, ordered that a separate judgment shall be entered in the severed cause and that the judgment be final and dispose completely of all issues between all parties in the respective suit.

Dated this 30th day of November, 1993.

/s/ SAM R. CUMMINGS, United States District Judge

[Document 204, filed December 6, 1993]

NOTICE OF INTENTION TO APPEAL ORDERS DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, PLAINTIFFS' MOTION FOR EXTENSION OF TIME FOR FILING OF AMENDED PLEADINGS AND JOINDER OF PARTIES, ANDGRANTING MELISSA MARTIN'S MOTION FOR SUMMARY JUDGMENT

To the Honorable Judge of Said Court:

Now come Plaintiffs who respectfully advise the Court of their Intention to Appeal the following orders:

1. Denying Plaintiff's Motion for Summary Judgment filed November 24, 1993, on the grounds that the Court has erred in that it has failed give adequate consideration to the conspiracy and RICO aspects of the Complaint. Plaintiffs claim they have submitted to the Court adequate prima facie evidence to warrant granting a summary judgment.

2. Denying Plaintiffs' Motion for Extension of Time for Filing of Amended Pleadings and Joinder of Parties filed November 24, 1993, on the ground that the Court has erred in that the Motion was timely filed, it will materially affect the conduct of this lawsuit because, as Plaintiffs stated in their Motion, they have been able to obtain counsel provided he has 60 days in which to review the pleadings, documents, and evidence so as to prepare amended pleadings. Plaintiffs claim that granting their Motion would substantially improve the conduct of the lawsuit, not only for Plaintiffs but also for Defendants and for the Court, because it would allow qualified counsel to take over. Such motions, especially for pro se plaintiffs, are normally granted.

3. Granting Melissa Martin's Motion for Summary Judgment filed November 30, 1993, on the grounds that Plaintiffs filed documents and other sworn evidence with their original pleadings that contain prima facie evidence not only of false swearing with specific and stated intent to deprive Plaintiff Hennessey of his right of redress by intentionally interfering with two State of Texas investigations of Defendant Blalack's misconduct. Melissa Martin is currently under indictment for perjury because of these false statements; under those circumstances, given that the Court has her statements as well as a transcript of the tape recording of the incident to which her statements refer, Plaintiffs claim the Court has no basis for granting her motion for summary judgment on grounds that they have not submitted any admissible evidence to controvert any material issue of fact. The transcript was signed by Texas Ranger Jim Mull verifying it to be a true and correct rendering of the tape recording of the incident.

Plaintiffs also respectfully wish to register their protest that the Presiding Judge, Sam Cummings, has not disqualified himself despite his brother's position as Trustee of Lubbock Independent School District, whose truancy cases are at central issue in this lawsuit.

Respectfully submitted,

/s/Gerard Hennessey /s/ Linda Ann Vega

==========94-10035==========

[Document 2 in 5:93-CV305-C filed November 30, 1993

JUDGMENT

By order of even date, in Civil Action 5:93-CV-078-C, Plaintiff's claims against Defendant MELISSA MARTIN were dismissed.

It is, accordingly, ORDERED, ADJUDGED, and DECREED that Plaintiff take nothing as against Defendants.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorny of record by first class mail.

Dated November 30, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 3 in 5:93-CV305-C filed November 30, 1993]

NOTICE OF INTENTION TO APPEAL ORDER GRANTING MELISSA MARTIN'S MOTION FOR SUMMARY JUDGMENT

To the Honorable Judge of Said Court:

Now come Plaintiffs who respectfully advise the Court of their Intention to Appeal its order filed November 30, 1993 granting Melissa Martin's Motion for Summary Judgment on the grounds that Plaintiffs filed documents and other sworn evidence with their original pleadings that contain prima facie evidence not only of false swearing with specific and stated intent to deprive Plaintiff Hennessey of his right of redress by intentionally

interfering with two State of Texas investigations of Defendant Blalack's misconduct. Melissa Martin is currently under indictment for perjury because of these false statements; under those circumstances, given that the Court has her statements as well as a transcript of the tape recording of the incident to which her statements refer, Plaintiffs claim the Court has no basis for granting her motion for summary judgment on grounds that they have not submitted any admissible evidence to controvert any material issue of fact. The transcript was signed by Texas Ranger Jim Mull verifying it to be a true and correct rendering of the tape recording of the incident.

Plaintiffs also respectfully wish to register their protest that the Presiding Judge, Sam Cummings, has not disqualified himself despite his brother's position as Trustee of Lubbock Independent School District, whose truancy cases are at central issue in this lawsuit.

Respectfully submitted,
/s/Gerard Hennessey /s/Linda Ann Vega

==========94-10370==========

[Document 212, filed December 20, 1993]

ORDER

This case is before the court for consideration of the Motion to Dismiss filed by Defendant Rosemary Chivers. After considering the motion, the written argument of counsel and the pro se plaintiff, and the record in this case, the court is of the opinion that the Motion to Dismiss should be granted.

Plaintiff's complaint may not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957). The court has construed the complaint of the plaintiff liberally. See Haines v Kerner, 404 U.S. 519 (1972). it has accepted the facts plead by the plaintiff as true and has viewed any inferences that may be drawn therefrom in the light most favorable to the plaintiff. Scheuer v Rhodes. 416 U.S. 232 (1974). Still the court must conclude that

the plaintiff cannot establish any meritorious claim against this defendant under any theory proposed in his pleading. Therefore, the motion to dismiss should be granted. Nevels v. Wilson, 402 F.2d 479 (5th Cir. 1968).

Plaintiff has alleged that Rosemary Chivers, an individual who happed to be applying for a job as a clerical assistant in Justice of the Peace Blalack's office on april 9, 1991, conspired to prepare, execute and swear false statements to the effect that Gerard Hennessey's conduct justified his arrest. He also asserts that Rosemary Chivers aided and abetted Melissa Martin and others to conspire to prevent him from examining records to which "public access is stiuplated in Texas Attorney General's Open Records Opinion No. 25 dated March 7, 1974." He seeks declaratory relief and monetary damages against Rosemary Chivers.

Accepting all of these allegations as true, plaintiff has failed to state a claim for relief against Rosemary Chivers. Plaintiff has no standing to seek damages under the RICO provisions because he has never been subjected to the conduct about which he complaints; i.e., excessive fines. Plaintiff has not stated a cause of action against this defendant for violating any right guaranteed by the United States Constitution. The conduct of Rosemary Chivers did not cause any deprivation of liberty or of property to Gerard Hennessey. He has not stated how anything in her conduct can be construed as depriving him of equal protection of the law. This court is unable to infer such a claim from the facts alleged. In fact, it appears that on the day plaintiff was arrested, Ms. Chivers was not employed by the county. Therefore, this defendant is entitled to have her motion to dismiss granted.

Any cause of action against this defendant based upon any state law is dismissed pursuant to 28 U.S.C. § 1367 (c) (3).

It is, accordingly, ordered that the Motion to Dismiss filed by Defendant Rosemary Chivers is GRANTED and all causes of action against her are, hereby, DISMISSED.

The clerk shall furnish a copy of this order by certified mail/return receipt requested to the plaintiff, who is appearing

pro se, and by first class mail to each attorney of record.

Dated December 20, 1993.

/s/ SAM R. CUMMINGS, United States District Judge.

[Document 213, filed December 20, 1993]

ORDER

By order dated December 20, 1993, the Court granted the Motion to Dismiss filed by Defendant Rosemary Chivers. Finding that there is no just reason for delay, the court directs that final judgment be entered as to Plaintiff's cliams against Rosemary Chivers. Rule 54(b), Fed. R. Civ. P.

It is, therefore, ORDERED that Plaintiff's claims against Defendant Rosemary Chivers are severed and shall hereafter be styled Gerard Hennessey v Rosemary Chivers, No. 5:93CV330-C.

The clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested, and by first class mail to each attorney of record.

Dated December 20, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 214, filed December 22, 1993]

ORDER

On this date came on to be considered the Motion of Randall Sherrod to Quash Plaintiff's Subpoena directing Sherrod to produce for inspection and copying any and all statements, tape recordings, video recordings and documented statements from Melissa Martin contained in files in his possession in cause numbers 6985-C, 6986-C, 6987-C, 6988-C, 6989-C. and 7142-C, as moot.

The Court on November 30, 1993 having granted Melissa martin's Motion for Summary Judgment and having that date adjudged that Plaintiff's claim against her be dismissed and that he take nothing against her, it is of the opinion that Sherrod's motion should be GRANTED.

It is accordingly ordered that the said subpoena be

quashed. Dated this 22nd day of December, 1993.

Dated December 22, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 215 filed January 3, 1994]

NOTICE OF APPEAL

To the Honorable Judge of Said Court

Now come Plaintiffs who give notice of their appeal of the Court's Orders filed December 20, 1993, as follows:

1. Order granting the Motion to Dismiss filed by Defendant Rosemary Chivers,
2. Order severing Plaintiff Gerard Hennessey's claims against Rosemary Chivers, for the purpose of entering a final judgment,
3. Order granting the Motion of Randall Sherrod to Quash Plaintiff's Subpoena,

on the following grounds:

1. The Court has prematurely dismissed Plaintiff's claims against Defendant Chivers, before Plaintiffs' appeal on the Court's discovery rulings could be considered by the Fifth Circuit Court of Appeal.
2. The Court has dismissed Plaintiff's claims in error, because it has not adequately addressed the issue of conspiracy, which is central to this Action.

a. Plaintiff claims he was injured by the conspiracy in which Defendant Rosemary Chivers, by her own admission in her sworn statement, participated. The action of the conspiracy deprived Plaintiff of equal protection of the law, denied him access to public records, and intentionally defamed Plaintiff with the aim of depriving his of the right of redress for damages he sustained while going about his lawful business in a peaceful manner in the office and court of former Justice of the Peace L. J. Blalack. Allegations with regard to police officers who were alleged to have combined to initiate criminal prosectution against a citizen for an unlawful purpose were found to be sufficient to withstand officers' motion to dismiss. [Green v Saenz, 812 F.Supp.

798].

b. Under relevant state law, there is no independent liability for civil conspiracy [Central Savings and Loan Association v Stemmons Northwest Bank. N.A. 848 SW2d 232]; thus claims against Defendant Rose Marie Chivers cannot be separated from those against other conspirators. As an admitted participant in the conspiracy, Defendant Rose Marie Chivers is equally liable for all the actions of the conspiracy unless and until she carries out some act disassociating herself from the conspiracy; she has not claimed to have performed any such act. [U.S. v Youngpeter, 986 F.2d 349].

c. A plaintiff need not have suffered injury directly from the process that fuels the economic engine sustaining a conspiracy, i.e. excessive fines, but need only have suffered injury at the hands of the corrupt conspiracy. For example, even though a defendant charged with participating in a corrupt drug dealing conspiracy by transporting money was not found to have bought or sold illegal drugs, he was nevertheless fully liable--as are all the other conspirators--for the harmful actions of the conspiracy. [U.S. v Hernandez, (1993) 986 F.2d 234]. Anyone harmed by the conspiracy has a cause of action against any and all conspirators, regardless of which individual's actions caused the actual harm or loss; thus an accounting firm is equally liable with a client company that files misleading financial reports. [In re Crazy Eddie Securities Litigation, (1993) 812 F.Supp. 338]

3. Even if Defendant Rose Marie Chivers were not employed by Lubbock County on the day Plaintiff Hennessey was arrested by Defendant L. J. Blalack, by her own admission in her sworn statement she did knowingly prepare, execute, and swear a false and defamatory statement about the Plaintiff several days later when there is no question that she was an employee of the county. She carried out an illegal act in support of the conspiracy, bringing her within the scope of liability for the harm--including defamation and denial of redress for unlawful arrest of Plaintiff Hennessey in Defendant Blalack's court--done to Plaintiff on and after the date she joined the conspiracy by her illegal act of false swearing.

4. The Court has erred in granting Randall Sherrod's Motion to Quash Plaintiffs' Subpoena, in that the records are part of an action that has been terminated. Information may not be retained indefinitiely and kept from disclosure; there must be a reasonable terminus [Saad v Safeco Life Insurance Co. (1975) 68 F.R.D. 248]. Plaintiff claims that he requires the requested documents for the purpose of impeaching Defendant Melissa Martin as a witness, whether she is restored as a defendant in this Action by the Fifth Circuit Court of Appeals or not.

Respectfully submitted,

/s/ Gerard Hennessey /s/ Linda Ann Vega

[Document 2 in 5:93-CV330-C, filed December 20, 1993]

JUDGMENT

By order of even date, in Civil Action 5:93-CV-078-C, Plaintiff's claims against Defendant ROSEMARY CHIVERS, were dismissed.

It is, accordingly, ORDERED, ADJUDGED, and DECREED that Plaintiff take nothing as against Defendants.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorny of record by first class mail.

Dated December 20, 1993.

/s/SAM R. CUMMINGS, United States District Judge

[Document 2 in 5:93-CV330-C, filed December 20, 1993]

JUDGMENT

By order of even date, in Civil Action 5:93-CV-078-C, Plaintiff's claims against Defendant ROSEMARY CHIVERS, were dismissed.

It is, accordingly, ORDERED, ADJUDGED, and DECREED that Plaintiff take nothing as against Defendants.

The Clerk shall furnish a copy hereof to any party appearing pro se by certified mail/return receipt requested and to each attorney of record by first class mail.

Dated December 20, 1993.
/s/SAM R. CUMMINGS, United States District Judge

[Document 3 in 5:93-CV330-C filed January 3, 1994]

NOTICE OF APPEAL

To the Honorable Judge of Said Court

Now come Plaintiffs who give notice of their appeal of the Court's Judgment filed December 20, 1993, on the following grounds:

1. The Court has prematurely dismissed Plaintiff's claims against Defendant Chivers, before Plaintiffs' appeal on the Court's discovery rulings could be considered by the Fifth Circuit Court of Appeal.

2. The Court has dismissed Plaintiff's claims in error, because it has not adequately addressed the issue of conspiracy, which is central to this Action.

a. Plaintiff claims he was injured by the conspiracy in which Defendant Rosemary Chivers, by her own admission in her sworn statement, participated. The action of the conspiracy deprived Plaintiff of equal protection of the law, denied him access to public records, and intentionally defamed Plaintiff with the aim of depriving his of the right of redress for damages he sustained while going about his lawful business in a peaceful manner in the office and court of former Justice of the Peace L. J. Blalack. Allegations with regard to police officers who were alleged to have combined to initiate criminal prosectution against a citizen for an unlawful purpose were found to be sufficient to withstand officers' motion to dismiss. [Green v Saenz, 812 F.Supp. 798].

b. Under relevant state law, there is no independent liability for civil conspiracy [Central Savings and Loan Association v Stemmons Northwest Bank. N.A. 848 SW2d 232]; thus claims against Defendant Rose Marie Chivers cannot be separated from those against other conspirators. As an admitted participant in the conspiracy, Defendant Rose Marie Chivers is equally liable for all the actions of the conspiracy unless and until she carries

out some act disassociating herself from the conspiracy; she has not claimed to have performed any such act. [U.S. v Youngpeter, 986 F.2d 349].

c. A plaintiff need not have suffered injury directly from the process that fuels the economic engine sustaining a conspiracy, i.e. excessive fines, but need only have suffered injury at the hands of the corrupt conspiracy. For example, even though a defendant charged with participating in a corrupt drug dealing conspiracy by transporting money was not found to have bought or sold illegal drugs, he was nevertheless fully liable--as are all the other conspirators--for the harmful actions of the conspiracy. [U.S. v Hernandez, (1993) 986 F.2d 234]. Anyone harmed by the conspiracy has a cause of action against any and all conspirators, regardless of which individual's actions caused the actual harm or loss; thus an accounting firm is equally liable with a client company that files misleading financial reports. [In re Crazy Eddie Securities Litigation, (1993) 812 F.Supp. 338]

3. Even if Defendant Rose Marie Chivers were not employed by Lubbock County on the day Plaintiff Hennessey was arrested by Defendant L. J. Blalack, by her own admission in her sworn statement she did knowingly prepare, execute, and swear a false and defamatory statement about the Plaintiff several days later when there is no question that she was an employee of the county. She carried out an illegal act in support of the conspiracy, bringing her within the scope of liability for the harm--including defamation and denial of redress for unlawful arrest of Plaintiff Hennessey in Defendant Blalack's court--done to Plaintiff on and after the date she joined the conspiracy by her illegal act of false swearing.

Respectfully submitted,

/s/ Gerard Hennessey /s/ Linda Ann Vega

APPENDIX C

EXTRACTS FROM PLEADINGS FILED WITH THE TRIAL COURT

===ORIGINAL COMPLAINT (Document 1, P1)======
Complaint (April 7, 1993)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

GERARD HENNESSEY *
and others, *
Plaintiffs, *
vs. *
L. J. BLALACK, DON McBEATH, *
J. DAVID NELSON, MELISSA MARTIN, *
JULIE MARTIN, ROSEMARY CHIVERS, *
DIANA HOLLOMAN, LYN DUVAL, *
PATSY SUMMERS, ROBERT FLOWERS, *
JOHN NEAL, DOUG GREATHOUSE, *
COUNTY OF LUBBOCK, and others, *
Defendants. *

JURY TRIAL DEMANDED

COMPLAINT

This is a civil suit seeking to redress the deprivation, under color of state law, of the rights, privileges and immunities of GERARD HENNESSEY and others under the United States Constitution and laws of the State of Texas. Gerard Hennessey asserts, upon knowledge with respect to himself and his own actions, and otherwise upon information and belief, as follows in this Complaint. Each and every fact in the Complaint and the causes of action, and each and every attachment and addendum to the Complaint, is included as part of each of the four causes

of action. Each of the attachments is an accurate transcription of the item identified. There is extensive additional support for each cause of action on the part of others whose rights, privileges and immunities have also been denied by Lubbock County officials.

I. PRELIMINARY STATEMENT

1. This civil suit for a declaratory judgment and damages arises out of the conspiracy of L. J. Blalack, J. David Nelson, Don MacBeath, Melissa Martin, Diana Holloman, Lyn Duval, Rosemary Chivers, Julie Martin, John Neal, Doug Greathouse to deprive Gerard Hennessey and others of personal liberty and property without due process of law contrary to the rights, privileges and immunities to which they are entitled under the United States Constitution and the laws of the State of Texas.

2. Plaintiff Gerard Hennessey is a resident of the City of Lubbock in the County of Lubbock who was party to a dispute set out in Bill Suter dba Movie Source v Kate Hennessey concerning excessive charges for late return of rented video cassettes.

3. In connection with his defense against the above action in Lubbock County Court, Gerard Hennessey requested a clerk in the office of Lubbock County Justice of the Peace Bill Ross for copies of complaints Suter had filed against other video rental customers. The clerk telephoned J. David Nelson, Suter's attorney, who came to the court and personally protested access by Gerard Hennessey to these public court records.

4. Subsequently, still in connection with defense against the same action, Gerard Hennessey again requested copies of the other complaints from the office of Lubbock County Justice of the Peace L. J. Blalack who had taken possession of Ross' records when Ross left office. When Gerard Hennessey was refused access to these specific records, he clearly stated his request for access to the complaints as a member of the public seeking access to public records, which Melissa Martin refused to provide unless she received specific instructions from Justice of the Peace L. J. Blalack.

5. In addition to refusal of access to public records, Judge Blalack's clerk Melissa Martin abused, humiliated and

ordered Gerard Hennessey out of the office of L. J. Blalack. She also sent for a bailiff to arrest him. When Gerard Hennessey subsequently appeared in L. J. Blalack's court to request the records, Blalack ordered Gerard Hennessey to be placed in custody by the bailiff who had been summoned by Melissa Martin for that purpose. The bailiff placed Gerard Hennessey in handcuffs; no reason was given to Gerard Hennessey for the arrest, nor was a warrant issued. L. J. Blalack proceeded to verbally abuse, threaten, and humiliate Gerard Hennessey without cause.

5. L. J. Blalack eventually directed the bailiff to release Gerard Hennessey. He also authorized Melissa Martin to release to Gerard Hennessey the amount of the settlement for one of the Suter complaints, but he did not authorize access to the records themselves.

6. After Gerard Hennessey was released, L. J. Blalack, Melissa Martin, Julie Martin, Diana Holloman, Rosemary Chivers, and Lyn Duval conspired to prepare, execute and swear false statements to the effect that Gerard Hennessey's conduct justified his arrest. Melissa Martin, a Notary Public in and for the State of Texas, helped L. J. Blalack to coerce and assisted in the preparation of each of the false statements; she also notarized each of these statements other than her own, knowing them to be sworn falsely.

7. Gerard Hennessey complained about L. J. Blalack's arrest and mistreatment to Don McBeath of the Lubbock County Commissioner's Court. Don McBeath apologized for L. J. Blalack's behavior but took no action to obtain the Suter complaint records from Blalack's office.

8. Gerard Hennessey complained to the Executive Officer of the Texas Judicial Conduct Commission Robert L. Flowers, who conspired with L. J. Blalack and others over a period of at least nine months to prevent the Commission from removing L. J. Blalack from office for official misconduct and official oppression under the laws of the State of Texas, and to deprive complainants of adequate time to pursue other remedies and actions.

9. Gerard Hennessey and Linda Ann Vega, who had been illegally detained in L. J. Blalack's court for inability to pay a fine, filed a petition in Lubbock County Court for removal of L. J. Blalack from office on grounds of false arrest, official misconduct, and official oppression. Lubbock District Attorney Travis Ware recused himself due to his close association with L. J. Blalack over a period of at least seven years. Ray Anderson, Presiding Judge of the 9th Administrative Judicial Region, assigned 259th District Court Judge Quay Parker to hear the case and he appointed John Neal, 90th Judicial District Attorney, as special prosecutor. L. J. Blalack conspired with John Neal and special investigator Doug Greathouse to rely upon false statements made by L. J. Blalack and his staff. John Neal and Doug Greathouse intentionally neglected to investigate the complaints on which the petition was based in a timely and reasonably professional manner, knowing that the effect of such neglect would be to prevent a timely hearing of the petition. Lubbock County Court records show that John Neal and Doug Greathouse spent only two days investigating the complaints on which the petition of Gerard Hennessey and Linda Ann Vega were based, although they had provided John Neal and Doug Greathouse with full statements, written evidence, and names, addresses and other details of more than 30 other complaints about L. J. Blalack's abusive and unconstitutional treatment of Lubbock citizens. John Neal and Doug Greathouse also failed and refused to take steps to provide Gerard Hennessey with the Suter complaint records.

10. Lubbock County Commissioners had been aware of L. J. Blalack's conduct for many years, and had conspired with him to ignore and prevent action on complaints about his conduct because he produced a large amount of income from fines. Lubbock County records show that many of the fines L. J. Blalack imposed were excessive, that Lubbock County officials knew they were excessive, and that Lubbock County officials made no effort to facilitate efforts by Lubbock citizens to obtain refunds of excessive fines. Lubbock County officials also knew that L. J. Blalack sent people directly to jail when they were unable to pay

these excessive fines on the spot; they knew this was illegal and unconstitutional, because all justice of the peace cases may be appealed to County Court within seven days. They conspired with L. J. Blalack to continue his practice of obtaining money from citizens under duress, an abuse of citizens' rights, because it yielded large sums of money for the County, and for particular officials of the County.

11. Recent search of the records of Lubbock County Justices of the Peace by Special Prosecutor Terry McEachern, Texas Ranger Jim Mull and present Justice of the Peace Tom Head indicate that relevant documents and files in the Suter cases are missing, in particular those documents that would support Gerard Hennessey's contention that J. David Nelson was acting as a collection agent for Suter, and that collection letters J. David Nelson sent to Suter customers were in violation of the U. S. Fair Debt Collection Practices Act for which actions J. David Nelson would be liable for substantial penalties and remedies.

12. These and other corrupt and unconstitutional acts carried out by L. J. Blalack in conspiracy with administrators and officials of Lubbock County Commissioner's Court and others are of such an extensive, frequent, intentional and pervasive nature as to constitute a conspiracy to deprive a substantial number of Lubbock citizens of rights, privileges and immunities under the United States Constitution and the laws of the State of Texas. Gerard Hennessey and his class of plaintiffs seek damages under the federal Civil Rights Act, 42 U.S.C. $_5$ 1983, the federal Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. SS 1961 et seq. ("RICO"), and the laws of the State of Texas. The intentional and longstanding nature of the conspiracy, the damage done to Gerard Hennessey and other Lubbock citizens, and the denial of due process is so serious, intentional, corrupt and extensive and as to warrant setting aside the normal protections of judicial immunity and to invoke the provisions of the Racketeer Influenced and Corrupt Organizations Act.

13. Melissa Martin and Patsy Summers, as a matter of common practice and procedure, prepared and swore statements at the request of L. J. Blalack that they knew to be false for the

stated purpose of helping him to avoid justified charges of judicial misconduct. Melissa Martin also prepared a statement about Gerard Hennessey's contact with her in a supermarket, and Patsy Summers notarized this statement knowing it was false and defamatory.

II. JURISDICTION

14. This action is brought pursuant to 42 U.S.C. S 1983 and the Fifth Amendment to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. S 1251 et seq.

15. Plaintiffs further invoke the pendent jurisdiction of this Court to hear and decide claims arising under State law.

III. VENUE

16. Venue is proper in this District under 28 U.S.C. S 1391 (b). With the exception of Robert Flowers, John Neal and Doug Greathouse, all of the defendants reside in this District. Plaintiff Gerard Hennessey and others also reside in this District. In addition, all of the defendants perform or performed their official functions in this District, and the events giving rise to this action occurred primarily within this District.

IV. THE PARTIES

A. The plaintiff and other injuried parties

17. Plaintiff GERARD HENNESSEY and other injured parties are individuals and residents of Lubbock County in the State of Texas.

B. The Defendants

18. Defendant L. J. BLALACK is an individual who resides in Lubbock County in the State of Texas and was, until September 1992, Justice of the Peace of Precinct One in the County of Lubbock. As an officer of the court of Lubbock County, he was charged with adjudicating complaints and other matters that came before him, having sworn to uphold the constitutions and laws of the State of Texas and the United States of America. L. J. Blalack is sued individually and as a Lubbock

County Justice of the Peace.

19. Defendant J. DAVID NELSON is an individual who resides and practices as an attorney in Lubbock County in the State of Texas. As an officer of the court, J. David Nelson is subject to penalties and damages if found tampering with court documents or conspiring to deny rights to a citizen.

19. Defendant ROBERT L. FLOWERS is the Executive Officer of the Texas Commission on Judicial Conduct. He is responsible for investigating complaints about Texas judges and presenting evidence about such complaints to the Commission, which decides whether to remove, censure or otherwise discipline judges when appropriate.

20. Defendant MELISSA MARTIN is an individual who resides in Lubbock County in the State of Texas and was, until September 1992, clerk to Justice of the Peace L. J. Blalack. She was charged with maintaining the records of L. J. Blalack's court, receiving fines, and issuing court documents. Melissa Martin is sued individually and as an administrative employee of Lubbock County.

21. Defendant JULIE MARTIN is an individual who resides in Lubbock County in the State of Texas and was a clerical assistant in the office of Justice of the Peace L. J. Blalack. She was performing clerical duties in the office of L. J. Blalack's court in April 1991.

22. Defendant ROSEMARY CHIVERS is an individual who resides in Lubbock County in the State of Texas and was an applicant for a position of clerical assistant in the office of L. J. Blalack's court on 9 April 1991.

23. Defendant DIANA HOLLOMAN is an individual who resides in Lubbock County in the State of Texas. She was performing clerical duties in the office of L. J. Blalack's court in April 1991.

24. Defendant LYN DUVAL is an individual who resides in Lubbock County in the State of Texas. She was performing clerical duties in the office of L. J. Blalack's court in April 1991.

25. Defendant PATSY SUMMERS is an individual who

resides in Lubbock County in the State of Texas. She was performing clerical and administrative duties in the office of L. J. Blalack's court in April 1991. She is sued individually and in her capacity as administrative assistant to L. J. Blalack.

26. Defendant DON McBEATH is a County Judge in the County of Lubbock. He performs judiciary duties and is responsible for administration of Lubbock county courts. Don McBeath is sued individually and in his capacity as an officer of the court of the County of Lubbock.

27. Defendant JOHN NEAL is District Attorney of the 90th Judicial District in Texas. He was also special prosecutor charged with investigation of the petition for removal of L. J. Blalack from office filed by Gerard Hennessey and Linda Ann Vega.

28. Defendant DOUG GREATHOUSE was employed by John Neal to
investigate the allegations made by Gerard Hennessey and Linda Ann Vega in support of their petition for removal of L. J. Blalack from office.

29. The COUNTY OF LUBBOCK is a local government entity of the State of Texas, charged with administration of justice within an area described as Lubbock County in West Texas.

V. ALLEGATIONS AS TO FACT

A. General Background

30. Since 1985, L. J. Blalack has served as Justice of the Peace for Lubbock County in the State of Texas. He regularly presided over inquests, DWI cases, consumer complaints, bad check charges, truancy cases and domestic disputes. Justice Bill Ross carried out similar duties from 1985 to 1989.

31. J. David Nelson is an attorney with a general practice in the County of Lubbock. He took over from Jim Bob Darnell to represent Bill Suter in an attempt to collect extra rentals for overdue video cassettes and video cassette recorders from Suter's former customers. Jim Bob Darnell, former Lubbock County District Attorney, arranged with Luke Jordan, an assistant prosecutor in the office of Lubbock County District

Attorney Travis Ware, to use the law enforcement facilities of the State of Texas to obtain the addresses of Bill Suter's former customers who had left Lubbock, claiming the goods had never been returned. When some of these former customers complained that they had long ago returned the items listed in Bill Suter's complaints, Jim Bob Darnell withdrew and J. David Nelson took over as Bill Suter's attorney.

32. J. David Nelson sent collection letters and filed at least five complaints on behalf of Bill Suter in the court of Justice of the Peace Bill Ross. One of the exhibits in each complaint was a copy of a collection letter to the defendant, containing material clearly in violation of the federal Fair Debt Collection Practices Act. One of the recipients of such a letter and complaint was Kate Hennessey, Gerard Hennessey's daughter. A copy of the letter sent to Kate Hennessey, along with the complaint, is shown in Appendix A attached herewith. Although she had tried to settle the matter and offered up to $200 in settlement, Bill Suter demanded over $250 for two late tapes that had been returned, and David Nelson demanded over $500 in attorney's fees. Gerard Hennessey and his wife Audrey Kathleen Hennessey accompanied their daughter to a hearing that was deferred and, on 20 minutes' notice, convened and then deferred again in the Justice of the Peace court of Bill Ross. During discussions with another defendant and attempts to settle the matter, the Hennesseys realized it would be necessary to have the matter heard in a court of record where testimony could be recorded. Subsequently the complaint was filed in Lubbock County Court and the Hennesseys filed a counterclaim based on violation of the Texas Deceptive Trade Practices Act by Bill Suter and of the federal Fair Debt Collection Practices Act by J. David Nelson.

33. Gerard Hennessey went to the office of Justice of the Peace Bill Ross to obtain copies of the other complaints filed by J. David Nelson against Bill Suter's customers so he could show that J. David Nelson was acting as a collection agent and therefore was subject to the provisions of the Fair Debt Collection Pracices Act. The clerk telephoned J. David Nelson and he arrived within a few minutes, whereupon he loudly

objected to the clerk giving Gerard Hennessey access to files containing the other complaints. J. David Nelson also made disparaging and untrue remarks about Gerard Hennessey to his attorney, Sam Ogan, and claimed to Sam Ogan that Gerard Hennessey had made a telephone call threatening to kill members of Bill Suter's family. At the time, Gerard Hennessey was in Sam Ogan's office listening to the conversation over a speakerphone. During a later arbitration hearing, Bill Suter played a tape recording of the threat call; the voice obviously was not that of Gerard Hennessey and Bill Suter stated he had told J. David Nelson so at the time.

34. A week before an arbitration meeting held to settle the above case, Gerard Hennessey was directed by County staff to the office of Justice of the Peace L. J. Blalack to obtain copies of Bill Suter's complaints against his other customers because L. J. Blalack took custody of Bill Ross' records when he left office. Because of the previous problems with J. David Nelson stated above, Gerard Hennessey carried a tape recorder with him in his pocket.

35. As described in detail in the transcript of the tape recording attached herewith as Appendix B, Gerard Hennessey requested access to the files containing the complaints filed by J. David Nelson against Bill Suter's customers. Melissa Martin, a clerk in L. J. Blalack's office, refused him access to the records and demanded to know who he was and why he wanted to look at them. Gerard Hennessey stated he was a member of the public and insisted that he had a right to examine the files, which were public records, whereupon Melissa Martin verbally abused, threatened and publicly humiliated Gerard Hennessey. She told him he would have to request the files from Judge Blalack in person. After Gerard Hennessey left the office, Melissa Martin telephoned Sgt. Jay Helton, acting as Lubbock County Court Bailiff, and requested him to come to Judge Blalack's court to make an arrest. Gerard Hennessey sat in the court, waiting to speak to Judge Blalack. Confusing Avalanche Journal reporter Mike Erickson for Gerard Hennessey, Judge Blalack verbally abused, threatened and publicly humiliated Mike Erickson until

Melissa Martin interrupted and pointed to Gerard Hennessey.

36. L. J. Blalack proceeded to verbally abuse, threaten and publicly humiliate Gerard Hennessey for a protracted period of time, after which time he instructed Sgt. Jay Helton to arrest Gerard Hennessey and take him to jail. At no time was Gerard Hennessey informed of the reason for his arrest, nor was any warrant properly executed or served. No conduct on the part of Gerard Hennessey gave reason for such arrest, other than his request as a member of the public for access to a public record.

After a period of time, L. J. Blalack instructed Sgt. Jay Helton to remove the handcuffs from Gerard Hennessey, whereupon Blalack instructed Melissa Martin to provide Gerard Hennessey the amount of the settlement in one of the Bill Suter cases.

37. After Gerard Hennessey left the court, L. J. Blalack instructed Melissa Martin to cause each clerk in his office to prepare and execute a statement claiming that Gerard Hennessey had been loud and abusive in order to justify his arrest. Melissa Martin examined the clerks' statements and, when they were acceptable to L. J. Blalack, notarized them knowing the statements were false. Copies of the clerks' original statements notarized by Melissa Martin are shown in Appendix C hereunder.

38. Also included in Appendix C are statements subsequently executed and sworn by these same clerks in the presence of Texas Ranger Jim Mull. Their statements describe the events that actually transpired when Gerard Hennessey was in L. J. Blalack's office and court, and give details of the conspiracy between L. J. Blalack and Melissa Martin to elicit falsely sworn statements from them.

39. On January 5, 1993, L. J. Blalack was indicted by the Lubbock County Grand Jury on counts of official oppression, official misconduct, misuse of county property, and perjury to a grand jury. Melissa Martin was indicted on counts of false swearing and was arraigned on January 8. L. J. Blalack has neither been arraigned nor arrested although three months have elapsed.

40. In the course of seeking redress for L. J. Blalack's wanton disregard for his rights, privileges and immunities under

the United States Constitution and the laws of the State of Texas, Gerard Hennessey obtained documents and statements from over thirty individuals who claimed that L. J. Blalack abused, vilified, and humiliated them in his court, that he denied them an opportunity to defend themselves, and that he denied them due process and other rights. A summary of these individuals' charges is shown in Appendix D.

FIRST CAUSE OF ACTION

41. The defendants have collectively engaged in unlawful activity, have conspired to conduct and have intentionally conducted fraudulent, abusive, harmful and unconstitutional acts against Gerard Hennessey and others over an extended period of time.

42. In carrying out these activities, defendants L. J. Blalack and Melissa Martin, in conspiracy with and aided and abetted by defendants Don McBeath, Julie Martin, Rosemary Chivers, Diana Holloman, Lyn Duval, and the County of Lubbock, all of whom being government officials and public employees, acting under the color of the statutes, ordinances, regulations, customs and usages ofthe State of Texas, have caused Plaintiff Gerard Hennessey and others to be deprived of the rights, privileges and immunities to which he is entitled under the United States Constitution and the laws of the State of Texas.

43. Plaintiff Gerard Hennessey seeks a declaratory judgment that the conduct of said defendants toward Gerard Hennessey and others did violate their rights under the United States Constitution. Gerard Hennessey further seeks compensatory damages be awarded him for the emotional pain and suffering involved in blatant and abusive denial of his rights, the following amounts: $20,000 from L. J. Blalack, $20,000 from Melissa Martin, $20,000 from Don McBeath, $5,000 from each of Julie Martin, Rosemary Chivers, Diana Holloman and Lyn Duval, and $20,000 from Lubbock County. Gerard Hennessey also seeks punitive and exemplary damages in a like amount from each defendant, bringing this claim to $200,000 in total.

SECOND CAUSE OF ACTION

44. Defendants J. David Nelson, L. J. Blalack, and Melissa Martin, aided and abetted by Julie Martin, Rosemary Chivers, Diana Holloman and Lyn Duval, and Lubbock County have conspired to and have prevented Gerard Hennessey from examining records to which public access is stipulated in Texas Attorney General's Open Records Opinion No. 25 dated March 7, 1974.

45. Plaintiff Gerard Hennessey seeks a declaratory judgment stating that above defendants have intentionally and illegally sought to and succeeded in preventing Gerard Hennessey gaining access to public records to which he was entitled. Plaintiff Gerard Hennessey seeks compensatory damages for the pain and suffering involved in denial of access to said public records in the following amounts: $20,000 from J. David Nelson, $20,000 from L. J. Blalack, $20,000 from Melissa Martin, $5,000 from each of Julie Martin, Rosemary Chivers, Diana Holloman and Lyn Duval, and $20,000 from Lubbock County. Gerard Hennessey further seeks punitive and exemplary damages of a like amount, bringing the total claim for this action to $200,000.

THIRD CAUSE OF ACTION

46. Defendants L. J. Blalack, J. David Nelson, Melissa Martin, Julie Martin, Rosemarie Chivers, Diana Holloman, and Lyn Duval made and swore statements that portrayed the conduct of Gerard Hennessey in an unfair and detrimental manner. They made these statements knowing they were false with the intent of injuring Gerard Hennessey's reputation and in order to prevent him from exercising his lawful rights.

47. Plaintiff Gerard Hennessey seeks a declaratory judgment that said defendants intentionally made false statements and that all but J. David Nelson conspired together to make false statements in order to prevent Gerard Hennessey from exercise of his lawful rights. Plaintiff Gerard Hennessey further seeks compensatory damages for the pain and suffering as well as loss of reputation and loss of ability to exercise his lawful rights over a period of several months, in the following amounts: $20,000

from J. David Nelson, $20,000 from L. J. Blalack, $20,000 from Melissa Martin, $5,000 from each of Julie Martin, Rosemarie Chivers, Lyn Duval and Diana Holloman, and $20,000 from the County of Lubbock for knowingly perpetuating and failing to gain control over a longstanding pattern of such false statements. Plaintiff further seeks punitive and exemplary damages of a like amount, for a total sum of $200,000.

FOURTH CAUSE OF ACTION

48. Defendants L. J. Blalack, Don McBeath, Robert L. Flowers, John Neal, Doug Greathouse, and the County of Lubbock conspired to prevent successful prosecution of Gerard Hennessey's petition to remove L. J. Blalack from office in a timely manner.

49. Plaintiff Gerard Hennessey seeks a declaratory judgment that above defendants acted in concert to prevent and avoid a hearing of charges against L. J. Blalack, and that such actions are contrary to law as well as government policy and procedure, and are unacceptable in the justice administration system. Plaintiff Gerard Hennessey further claims compensatory damages for the pain and suffering involved in being misled and denied professional assistance and services as specified in the statutes, in the following amounts: $20,000 from L. J. Blalack, $20,000 from Don McBeath, $20,000 from Robert L. Flowers, $20,000 from John Neal, $20,000 from Doug Greathouse, and $20,000 from Lubbock County. Gerard Hennessey also seeks punitive and exemplary damages
of a like amount, bringing the total claim on the fourth count to $240,000.

50. Plaintiff sets out below arguments to deal with definitions and qualifications necessary to warrant compensation and award of damages sought.

EXHAUSTION OF STATE REMEDIES

51. Plaintiff Gerard Hennessey has exhausted all remedies available under state laws and regulations. When the complaint about L. J. Blalack he sent to the Texas Judicial

Conduct Commission, shown in Appendix E, was ignored and not investigated, Gerard Hennessey filed a petition in Lubbock County Court for removal of L. J. Blalack from office, a copy of which is found in Appndex F. Gerard Hennessey testified to the Lubbock County Grand Jury in January, resulting in four indictments against L. J. Blalack and one against Melissa Martin, copies of which are shown in Appendix G. To the present day, no action has been taken by Lubbock County to arraign or arrest L. J. Blalack on the charges brought in the indictments. For this reason, Plaintiff seeks redress in federal court.

REQUIREMENTS OF 42 USCA 1981-88.

52. The only elements which need to be present to establish a claim for damages under the Civil Rights Act are: i) that the conduct complained of was engaged in under color of state law and ii) the conduct subjected plaintiff to deprivation of rights, privileges or immunities secured by the United States Constitution. Plaintiff Gerard Hennessey has suffered abuse and deprivation of rights in a Justice of the Peace court and at the hands of officials and officers of government entitites legally constituted in the State of Texas. Plaintiff has clearly been denied the right of due processs of law as well as equal protection under the law.

JUDICIAL IMMUNITY

53. A judge is not judicially immune from liability under federal Civil Rights statutes where elementary principles of procedural due process are violated (Sparkman v McFarlin 55 F 2d. 172; Sparks v duVal County Ranch Co Inc. 588 F 2d 124). Furthermore, clerks and other administrative employees are not entitled to the protection of judicial immunity where ethey knew of reasonably could have known that their action violated the constitutional rights of another person and acted with malicious intent to cause deprivation of such rights or other injury. (Crews v Petrovsky 509 F Supp 1199).

CONSPIRACY

54. The acts of defendants themselves are important circumstances from which to draw inferences of a conspiracy (U.S. v James528 F 2d 999). Particpation in a conspiracy's common purpose and plan may be inferred from the defendant's actions and reaction to circumstances (U.S. v Garcia 655 F 2d 59; U.S. v Cole 704 F 2d 554; U.S. v Andrews 585 F 2d 961). A conspiracy is presumed to continue until its termination is shown (U.S. v Blackshire 538 F 2d 569). Eyewitness, overheard and taped proof of commission of the crime of conspiracy is admissible. (U.S. v. James 703 F 2d 1243). Perimeters of the conspiracy can be determined from those who refused to participate (U.S. v Eckman 656 F 2d 308). Some clerks working in L. J. Blalack's office, such as Tammi Pisarski, resigned rather than prepare false and illegal documents at his request and take part in the wanton abuse of citizens' rights. Judge Jim Hansen, although facing extreme pressure, took all possible steps to protect citizens from L. J. Blalack. Inaction of officers or their fear to take action is relevant to a conspiracy charge (U.S. v Feliziani 472 F Supp. 1037 affirmed). In order to be found guilty of conspiracy, only one of the defendants need be shown to have engaged in one overt act in furtherance of the conspiracy (U.S. v Hobson 686 F 2d 628).

BASIS FOR RELIEF SOUGHT

55. Plaintiff may recover both compensatory and punitive damages under section 1983 (Acosta v University of District of Columbia 528 F Supp 1215; Ray v Edwards 557 F Supp 664) Humiliation is a cognizable and compensable injury under civil rights statutes (Carter v Duncan-Huggins Ltd. 727 F 2d 1225, 234 US App D.C. 126). Reckless or callous disregard for a person's rights is sufficient to support an award for punitive damages. (Estate of Davis v. Hagen 582 F Supp 938). Award of $200,000 punitive damages was assessed against a county judge since there had been a serious abuse of judicial power and the judge had acted maliciously, wantonly and oppressively (Harris v. Harvey 605 F 2d. 330). Award of damages for denial of civil rights has ranged from $2,000 to $600,000 on appeal. In view of the

widespread and longterm nature of the denial and violation of civil rights and refusal to redress their impact on the Plaintiff, the amount of $840,000 sought from the perpetrators is neither unusual nor excessive.

AWARD OF ATTORNEY'S FEES AND COSTS

56. Plaintiff further seeks award of all attorney's fees and costs involved in pursuing this action and all appeals and matters subsidiary thereto.

RICO AWARD

57. Plaintiff further claims that a corrupt and illegal enterprise was and is being operated by Lubbock County officials under the guise of administration of justice, whereby revenue from excessive fines and other sources is funnelled to certain county officials in the form of illegal bonuses and overtime payments. Plaintiff claims that this constitutes a corrupt and illegal enterprise under the Racketeer Influenced and Corrupt Organizations Act (RICO) 18 U.S.C. S 1961, trebling damages to an amount of $2,520,000 plus attorney's fees and costs.

INJUNCTION

58. Plaintiff further seeks an order requiring officials of Lubbock County to locate and provide to Plaintiff the complete file of each of the Suter cases.

JURY DEMAND

59. Plaintiff demands a jury trial as to all matters triable by a jury.

Dated: Lubbock, Texas April 7, 1993
/s/ Gerard Hennessey

LIST OF APPENDICES

APPENDIX A: In re Bill Suter v Kate Hennessey
APPENDIX B: Transcript of tape of L. J. Blalack's Office
APPENDIX C: Statements of L. J. Blalack's Staff
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APPENDIX E: Complaint to Texas Commission on Judicial Conduct
APPENDIX F: Petition for removal of L. J. Blalack
APPENDIX G: Indictments of L. J. Blalack and Melissa Martin
APPENDIX H: Letter to John Neal regarding Blalack Investigation

----------[Document 1, P 25]----------

Chronology of Events Leading to Resignation and Indictment of Lubbock County Precinct 1 Justice of the Peace L. J. Blalack

Day	Date	Action/Event
Mon	9 Oct 89	Re Suter v Hennessey, A. K. Hennessey sees Justice Ross at 9 a.m.; Ross agrees in writing to a postponement; at 9:30 a.m., court phones Kate Hennessey telling her she has to appear by 10 a.m. Karen Hodges, Hennesseys' attorney, files for postponement
Wed	11 Oct 89	G Hennessey goes to Ross' court to check on date for trial and to look at files of other Suter cases; clerk phones Suter's attorney (J. David Nelson) who appears in Ross' office within minutes and objects to GH seeing the court files.
Fri	29 Oct 89	J. David Nelson tells Sam Ogan, Hennesseys' attorney, on a loudspeaking telephone (heard by GH in Ogan's office at the time) that GH had threatened to kill Stuer's (plaintiff) mother and children
Mon	23 Oct 89	Case heard in Ross' court, moved to County court
Tue	9 Apr 91	GH goes to Blalack's court to see Suter v. Ed

wards--one of Ross' cases from 1989--in preparation for County Court hearing. Staff in Blalack's office (now in charge of Ross' files) refuse GH access to court records; GH goes into court to speak with Blalack, who puts GH in handcuffs; GH makes tape recording.

Wed 10 Apr91 Attorney Sam Ogan accompanies GH to Blalack's office; Blalack sees Ogan, tells him he was using "empathic hypnotism on GH the day before in court. GH was not allowed to accompany his attorney, and the door was shut on him by Blalack's clerk.

Tues 16 Apr91 Suter v Hennessey settled in arbitration; Nelson paid Hennesseys $500 damages for his violation of Fair Debt Collection Practices Act. During meeting, Suter plays tape metnioned by Nelson 20 Oct 1989; it is obviously not GH's voice, and Suter says he had told Nelson it was not GH.

Wed 15May 91 GH sends complaint letter about Blalack to Texas Commmission on Judicial Conduct

Fri 21 Jun 91 Hansen and others file complaints about Blalack with the Texas CJC.

Sat 14 Sep 91 Robert Flowers, Executive Director of CJC, visits Lubbock; fails to contact or interview or contact Hennessey and other complainants. He talks with Travis Ware and Justice Jim Hansen, has lunch with L. J. Blalack and his attorney, W. Wischkaemper, and returns to Austin.

Fri 13 Dec 91 Commission on Judicial Conduct meets, is told by Flowers that he has investigated the complaint against Blalack and advises them to dismiss; they so vote

Tue 24 Dec 91 GH receives letter from Flowers advising of dismissal of complaint against Blalack; other complainants receive same letter.

Sat 11 Jan 92 GH submits letter to A-J editor Jay Harris about Blalack and CJC; editor refused to publish it and

similar letters from other complainants

Sat 11 Jan 92 GH meets Lina Vega (employed by attorney Jim Brennan), another complainant abused by Blalack during a truancy hearing 3 Jan 90

Fri 24 Jan 92 GH and Vega file first petition, dismissed by Judge McFall for "insufficient grounds as a matter of law to comply with the government code."

Mon 27 Jan 92 GH and Vega file amended petition, submitted to but signature declined by Judge Cecil Puryear

Thu 30 Jan 92 GH and Vega file amended petition, signed by Judge Brad Underwood

Wed 5 Feb 92 GH meets with Mike Erickson from A-J (was in court when GH was handcuffed)

Fri 7 Feb 92 GH meets with Sgt. J. Helton (bailiff who handcuffed GH on Blalack's orders)

Thu 13 Feb 92 John Neal phones GH, says he'll be in Lubbock for two weeks to investigate complaints against Blalack.

Mon 17 Feb 92 Check for $500 received from J. David Nelson

Wed 4 Mar 92 Details and papers of all people who contacted GH sent to Neal

Tue 10 Mar 92 Blalack loses primary election

Tue 24 Mar 92 GH and wife AKH meet with Neal and Greathouse at Paragon Hotel, GH makes written statement along with Vega and Erickson

Tue 7 Jul 92 GH, AKH and Vega meet with Neal and Greathouse at Lubbock County Sheriff's office; they are told about statements by Blalack's staff and that there are no grounds for prosecution.

Thu 23 Jul 92 Blalack issues warrants for arrest of all Lubbock County Commissioners, County Judge McBeath

Fri 24 Jul 92 Statements of Blalack's staff, Erickson and Blalack's bailiffs received from Neal

Thu 13 Aug 92 GH sends registered letter to Flowers at CJC with new evidence and newspaper clipping about Blalack's use of county facilities to solicit wed-

ding business and requests, for third time, that complaints be investigated.

Fri 25 Sep 92 Blalack resigns

Mon 28 Sep 92 GH delivers fourth letter to A-J editor, still won't print negative letters about Blalack

Wed 30 Sep92 Flowers phones GH, apologizes for not investigating initial complaints properly, says he got Blalack to resign

Mon 12 Oct92 McEachern appointed special prosecutor to investigate Blalack's misuse of County facilities

Fri 30 Oct 92 GH asks Judge Don McBeath's office for an appointment to see him--no reply

Wed 4 Nov 92 GH and Vega hold press conference for petition asking for investigation of entire County justice administration; met with McBeath who said he has no power to conduct an inquiry

Tue 24 Nov 92 GH phones McEachern, asked for interview; asks GH to "see me" in District Attorney's office in Lubbock at 2:45 p.m.

Sun 29 Nov 92 GH phones Tami Pisarski, one of Blalack's staff, whose statement agrees with Erickson's and bailiff's

Mon 30 Nov92 GH goes to interview, testifies to Grand Jury

TWTh Dec1-3 GH meets with Texas Ranger Jim Mull; on Thursday, Mull brings copies of all papers in the Suter v Edwards file. The petition and accompanying exhibits served on Edwards are missing, with no record in the file of Suter's original claim for $825.60 for three video tapes returned late, plus Nelson's claim for $750 attorney's fees.

Fri 4 Dec 92 Grand Jury adjourns, "rolls over" to Jan 4.

Fri 8 Jan 93 Grand Jury hands down five indictments of Blalack and clerk Melissa Martin for acts against GH and Linda Vega. Four months later, Blalack still not arraigned.

Affidavit of Attorney Sam Ogan (July 30, 1992)

AFFIDAVIT

STATE OF TEXAS
COUNTY OF LUBBOCK

BEFORE ME, the undersigned authority, on this day personally appeared SAM OGAN, who being duly sworn, on his oath stated:

"My name is Sam Ogan. This statement is given to detail aspects of my representation of Gerard Hennessey beginning in 1989. Mr. Hennessey's daughter was involved in a lawsuit styled Suter v. Hennessey. As the hearing on this case approached, we began trying to gather records from a local Justice of the Peace, Judge Ross. The attorney for Suter, David Nelson, objected to Mr. Hennessey getting the records he requested and told his staff not to give Mr. Hennessey the records.

Mr. Hennessey hired me to represent him and on Friday, October 20, 1989, I called Suter's attorney, David Nelson. Mr. Nelson accused Mr. Hennessey of threatening to kill his clients mother and children. He claimed to have these threats on tape.

As we prepared for a hearing on the lawsuit, I requested that Mr. Hennessey obtain certain court records for me that would be needed in the litigation. On April 9, 1991, Mr. Hennessey went to Judge Blalack's office. Due to previous problems in obtaining records as well as attorney Nelson's accusations that Mr. Hennessey had made threats, Mr. Hennessey carried a tape recorder with him to Judge Blalack's office at the time he requested copies of court papers. The documents requested were not confidential. They were merely lawsuits which had been filed in Justice Court. Mr. Hennessey was refused the records that he requested.

The next day, I accompanied Mr. Hennessey to Judge Blalack's office and was told that I could speak with the Judge but my client could not. I met with Judge Blalack in chambers. He said that it was all a big mistake, that my client had been rude and had yelled at his staff, but he had straightened it all out. He

did relate one odd matter to me. Judge Blalack stated that he had spoken with Mr. Hennessey and had attempted to calm him down by using "emphatic telepathic messages". My understanding was that Judge Blalack tried to get Mr. Hennessey to apologize by use of mental telepathy. I was told that we could not have the original files but we could purchase copies for $2.00 a page.

On April 16, 1991, the case of Suter v. Hennessey was submitted for arbitration. The tape which allegedly contained threats by Mr. Hennessey was played for the parties to hear. Mr. Suter even indicated that he had previously told his attorney that the voice was not Mr. Hennessey's. The case was settled, with Mr. Suter (who had originally filed suit) paying the Hennesseys $500."

/s/SAM OGAN

SUBSCRIBED AND SWORN TO before me on the 30th day of July, 1992.

/s/Sheila M. Baker, Notary Public, State of Texas

----------**[Document 1 P34]**----------

Transcript of Tape Recording of Events on April 9, 1991, in the Office of Justice of the Peace L. J. Blalack in the Lubbock County Court Building

GH is an abbreviation for Gerard Hennessey
??? indicates inaudible material
() provides notes explaining location and movement
Blalack's Clerk 1 is Tami Pisarski
Blalack's Clerk 2 is Melissa Martin

GH: Do you have Judge Ross' records?
Information clerk: No, Judge Blalack has them, just down the hall.
(GH walks down the hall and enters Justice Blalack's office)
Blalack's clerk 1: Can I help you?
GH: (Handing slip of paper with case number on it) I need to look at this case from Judge Ross' court.

Blalack's clerk 1:	What do you need to know?
GH:	I need to look at the file.
Blalack's clerk 1:	Okay. ??? 1989?
GH:	Yes, I think it was.
Blalack's clerk 1:	The name? The name?
GH:	(Pointing to the slip of paper) The number is here.
Blalack's clerk 1:	Well, the number don't (sic) come up. What is the name?
GH:	The name would be Edwards. Suter v Edwards.
Blalack's clerk 1:	Edwards?
GH:	Yes.
Blalack's clerk 1:	Suta?
GH:	S-U-T-E-R
Blalack's Clerk 1:	We don't have anything by that name. What is it? a check? a bad check?
GH:	No, it's a case tried by Judge Ross and I've got the file number there. That's the number of the case.
Blalack's Clerk 1:	8957324?
GH:	M-hm. I need to look at the file.
Blalack's Clerk 1:	The second number is 18116? We go to the second number, right?
GH:	The second one down on there. You've got two 89 numbers and I want the second one.
Blalack's Clerk 1:	Here it is. Do you want to see the case number?
GH:	No. I want to see the file.
Blalack's Clerk 2:	(later referred to as the woman dressed in black) And who are you?
GH:	I'm a member of the public; it's a public record. I've just been upstairs and seen all kinds of files.
Blalack's Clerk 2:	You'll have to talk to the judge before you see anything.
GH:	I have to see the judge? Could you give me

that in writing then?

Blalack's Clerk 1: Yes.

GH: Okay.

Blalack's Clerk 2: We're not going to write anything. What's your name? Are you the defendant or?

GH: Ma'am?

Blalack's Clerk 2: Are you the attorney?

GH: No. You just made a statement to me. Could you put it in writing that you are not going to give me the...

Blalack's Clerk 2: I'm not putting anything in writing. You wait right there and I'll ask the judge. (goes into Judge Blalack's office)

GH: Could I have my slip of paper, please?

Blalack's Clerk 1: (to Clerk 2) Where's the paper?

Blalack's Clerk 2: Who are you?

GH: Ma'am, I'm a member of the public; I don't see what it's got to do with it. I want to look at a public record.

Blalack's Clerk 2: What are you?

GH: Pardon?

Blalack's Clerk 2: What is your need to look at the record? What do you want?

GH: To look at the file.

Blalack's Clerk 2: Okay. You go in the courtroom and see if the judge will give you permission.

GH: Okay. Can I have my paper back? I've got some other numbers on there that I want.

(All three clerks look for the paper and retrieve it from the wastebasket.)

Blalack's Clerk 2: Here's your paper. ??? You go in there and sit down. Don't come in here talking to us that way.

GH: Ma'am.

Blalack's Clerk 2: I'm not talking to you.

GH: That's pretty rude; you've all been pretty rude to me. I've done...

Clerk 2: Get out. Get out. Go.

GH: Thanks very much.

(GH leaves Blalack's office and goes to Information Desk)

GH: Could you tell me who I could see about the... I'd like to see somebody. I've been very badly treated, rudely treated. I'd like to see somebody about it. I was in Judge Blalack's office.

(Information Clerk directs GH to MacBeath's office; GH goes there; MacBeath's clerk comes to counter)

GH: Hello. I'm a bit upset. I've been very badly treated in an office there.

MacBeath's Clerk: Blalack's office?

GH: Yea. How did you know that? How did you know that? I have been ordered out; it's terrible what they said.

MacBeath's Clerk: Who ordered you out?

GH: By the girls in the office. This is disgraceful.

MacBeath's Clerk: I know.

GH: Pardon?

MacBeath's Clerk: They just have had problems in hiring help and they are all new and don't know.

GH: I've never been talked to like that in my life and especially, you know I...

MacBeath's Clerk: Well, the only thing to do is ??? and

GH: So you just take it, is that it?

MacBeath's Clerk: Unless you want to do something official about it. What did they do that was rude?

GH: Well, I went in. I had just been upstairs and the lady there was very nice and she showed me the files for some cases. Right?

MacBeath's Clerk: Right.

GH: So I showed her this and she said for this one you need to go to this court. Right? So I went in and I said, "Can I see this file?" and this is the number and gave her the name and, you know, I said I think it's ????

She said " Now, why do you want it?" I said, "I'm just a member of the public and I want to see the file." I don't mind giving this, but it was the way it was said. "We don't give you anything from this office unless we know your name." I said, well all I need is a public record, I mean, I ????? They said, "You'll have to see the judge. Go wait in that office." Right? And I said "Okay, can I have.." I had given them this piece of paper with the numbers on it. "..can I have my piece of paper back?" And this one woman who is in charge who is dressed in black--she came up and she said "You get out of this office and we're not going to talk to you. Get out."

MacBeath's Clerk: ???

GH: It's unbelievable.

MacBeath's Clerk: You can go talk to the judge about it.

GH: Well, I mean, is it worth it? If I say anything, what kind of a reception am I going to get from him?

MacBeath's Clerk: Well, that's ???

GH: Is he going to be amenable to me, or am I going to have another row with him?

MacBeath's Clerk: I really don't know.

GH: What's his temperament? What's the man's temperament?

MacBeath's Clerk: ???

GH: You're not going to tell me, are you?

MasBeath's Clerk: Well, it's hard to say because I don't know what it would be right now. We really don't know, you know, what ??? He screams at many people. There are some bailiffs on the side of that door, and there's many and many come out of that door ???.

GH: I hope he's calmed down a bit before I go in

to him

MacBeath's Clerk: ???

GH: I take it that if it's a public record that I'm entitled to see it. If I ask for it, they should show it to me.

MacBeath's Clerk: Yes.

GH: Okay, I'll try, but if you hear any screams, you'll come and get me.

(GH goes to Jim Hansen's office)

GH: Are you Jim Hansen? I met you some time ago. I've just gone to try to get a record from this judge's office and I've been treated terribly badly there by the staff. They told me to get out and all kinds of things.

Hansen: ???

GH: It's unbelievable.

Hansen: Blalack?

GH: Well, his staff. Right? And so I said, well, I need to see this record and they said you can only have it if he says so. I've just been upstairs and they told me to come here. I've seen all the records there. I said, well, put it in writing if you're not going to give me the records. They started screaming; there were two of them, two of the girls there in the office ???. Then they said go and wait to see him. Right?

GH: I mean, what kind of judge has staff like that? What am I going to get from him?

Hansen: ???

GH: I know, I know. But I mean, give me a clue. Is it worth pursuing this?

Hansen: ???

GH: I just asked them and they said. What is that?

Hansen's Clerk: It's a judicial conduct form.

(GH goes to hallway outside Blalack's court)

Blalack's Clerk 2: Do you want to talk to the judge or not?
GH: I sure do.
Blalack's Clerk 2: Okay, I'll need that number again. Go and wait in the court.
GH: You're very rude, ma'am; you've been very rude to me.

On 12-01-92 I, Jim Mull, received a tape of the transcript I'm writing on. This tape, to the best of my knowledge, reflects this written transcript. I will return this tape to Mr. Hennessey on Friday 12-04-92 after Grand Jury.

/s/ Jim Mull, Texas Ranger #1512

----------[Document#P42]----------

Affidavit of Melissa Martin (April 9, 1991)

APRIL 9, 1991
TO WHOM IT MAY CONCERN:

On April 9, 1991, Gerard Hennessey came into our office. I did not wait on him. Tami and Julie had already talked with him when I approached him. I was sitting at my desk when Tami came up to me and asked me to talk with the man at the front counter because he was getting very rude and ugly with her and she did not know what to do. I approached the front desk and asked the man what he needed. At first, he did not answer, then I asked him again what he needed, he replied in a very arrogant tone of voice, that he wanted to see the courts file on a civil case filed in our court. I asked him who he was and he replied that it did not matter who he was that he just wanted to see the file. I repeated that I could not give him the shuck as it was one of Judge Ross's old cases and I could not locate it at this time. The man again became irritated and rude. I told him than that I was not going to argue with him and the he needed to have a seat in the courtroom and speak with the judge. This man became very argumentative an I told him to get out of the office and go to the courtroom again (he was yelling at me at this time). He finally

left.

The Judge called him to the bench and asked him what he wanted and he said that he asked the girls out front for a file and that they would not give that to him. He told the Judge that the girls in the office were rude and uncooperative with him and that I had thrown him out of the front office and the he did not appreciate it. The Judge told him that the girls were correct in what they had done because the shuck was filed away in the attic across the street and we could not hand it to him at that time. The man became belligerent and argumentative with the Judge. He told the Judge that he wanted that shuck. This man kept glaring at the judge with a very bad attitude! I'm not sure what was said after as I had returned to the outer office, but I could hear their tone of voice and the man was raising his voice with the Judge and continued to argue with him. The Judge tried to control his temper with the man and called me into the courtroom and told me to type a contempt of court complaint and warrant and call a deputy.

I typed the contempt of court and took it to the bench. The man was still arguing with the Judge. The Judge asked him to sit down.

The next thing I knew the man was gone and the charges had been dismissed against him. The Judge had Lyn look up on the computer and get the information for the man that he needed from that file. This man should have been contempted in my opinion for his actions towards the Judge, but the Judge let him go. This man stared at the Judge and did not answer his questions several times. This man had a very recalcitrant attitude.

4-9-91 /s/Melissa Martin
/s/Debra Chambers
Notary Public for Lubbock County

----------**[Document 1 P43]**----------

Affidavit of Diana Holloman (April 9, 1991)

THE STATE OF TEXAS
COUNTY OF LUBBOCK

BEFORE ME, on this day personally appeared Diana Holloman, who, after being duly sworn, stated:

"On April 9, 1991, Gerard Hennessey appeared at the Justice of the Peace Court, Precinct 1, Place 1, Lubbock County, Texas, and requested to see the papers on Case Number 89-618446. I overheard one of the Court Clerks ask Mr. Hennessey for his name. Mr. Hennessey replied that his name was not important, that he was a member of the public and as such was entitled to see the papers. He was asked to wait in the courtroom to discuss the matter with the Judge. Mr. Hennessey stated that was not necessary as he was entitled to see the papers since they were of public record. Mr. Hennessey continued to argue with the Court Clerks and continued to refuse to give his name. At this time, the office manager informed Mr. Hennessey that we would not argue with him regarding this matter and asked him to wait in the courtroom to speak to the Judge regarding the papers that he wanted to see. Mr. Hennessey left and returned in approximately 30 minutes and waited in the courtroom for the Judge. When Judge Blalack asked Mr. Hennessey to approach the bench, Mr. Hennessey was very belligerent with the Judge and raised his voice several times toward the Judge. Judge Blalack admonished Mr. Hennessey regarding him manner and volume, but Mr. Hennessey continued to behave in a belligerent manner. Judge Blalack advised Mr. Hennessey that unless he conducted himself in a professional respectful manner, he would be held in contempt of court. Judge Blalack provided Mr. Hennessey with the date and amount of judgment which was entered in this matter. Due to the fact that Mr. Hennessey continued in his argumentative manner, a contempt of court case was filed and a warrant and commitment issued and a deputy called, after which, Mr. Hennessey's manner was more professional and the contempt of court charges were dismissed, at which time Mr. Hennessey requested a copy of the papers and dismissal on the contempt charge and Judge Blalack assured Mr. Hennessey that the matter had been dismissed. Mr. Hennessey then left the courtroom."

/s/ Diana Holloman

SWORN TO AND SUBSCRIBED before me this 9th day of

April, 1991. /s/Melissa Martin Notary Public in and for Lubbock County, Texas

----------**Document 1 P45**----------

Affidavit of Lyn Duval (April 9, 1991)

My name is Lyn Duval. I am the Civil Clerk in the office of Judge L. J. Blalack in the Lubbock County Courthouse, Lubbock, Texas.

On April 9, 1991, a man, whom I later learned was named Gerard Hennessey, came in the office and inquired about a case that had been heard in Judge Ross's court in 1989. When the man was asked his name, he replied, "I am a member of the public and these are public records." When asked for further information, he refused to answer and simply kept insisting he was a member of the public and therefore was entitled to see any public record. He informed us that he had talked with someone upstairs and they directed him to us. He became very rude when he was asked his name and what it was he wanted, still insisting that he had a right to see anything in our files. Melissa told him to go have a seat in the Courtroom and ask the Judge for any information he required. He stood there and Melissa told him again and he replied that he was thinking about. He then said that she was very rude and that the whole office was very rude. We informed him that nothing was to go out of this office without the Judge's permission. He kept insisting he was a member of the public and was entitled to see the records. He then walked out of the office and it was quite some time later that I saw him in the hall of the Courtroom. He spoke with Judge Blalack and I took the Judge the information he requested. Needless to say, he was a lot more cooperative with the Judge than he had been with any of us and in my opinion, none of us were rude to him any way.
/s/ Lyn Duval, Civil Clerk

SUBSCRIBED AND SWORN TO before me the undersigned Notary this 9th day of April, 1991, to certify which witness my

hand and official seal.
/s/Debra Chambers
Notary Public in and for the State of Texas

----------[Document 1 P46]----------

Affidavit of Rose Mary Chivers (April 9, 1991)

On April 9, 1991 I was in Judge Blalack's office for an interview. At this time I overheard Mr. Gerald Hennessey raising his voice in the courtroom. Mr. Gerald Hennessey did not follow the judges orders, so at this time I heard the judge raise his voice & tell him if he did not stop yelling in his court room he would charge him with Contempt of Court. The judge told him at least two more time about charging him with contempt of court before Mr. Hennessey finally settled down. I then walked out of the office & didn't hear the rest.
/s/Rose Mary Chivers
/s/Melissa Martin, Notary Public [Texas Notary seal] 10/10/93

----------[Document1 P47]----------

Affidavit of Tami Pisarski (April 9, 1991)

To whom it may concern:

I Tami Pisarski who works at JP-1 as an office clerk.

On April 9, 1991, Mr. Hennessey walked up to the couter(sic), and I ask. If I could help him he said he needed to see file #89-618446. I took his little piece of paper to Julie Martin, she asked him his named(sic). He said he was a member of the public. She said well you need to see the Judge before you can see this file. He asked if she would put that in writing. She replied "no." She again said you need to go talk to the Judge. Then, Melissa Martin came to the counter and said you need to go to the courtroom. He then begin(sic) arguing. I returned to work.
/s/Tami Pisarski April 9, 1991
/s/Melissa Martin Notary Public [Texas Notary Seal] 10/10/93

----------[Document 1 P48]----------

Affidavit of Melissa Martin (July 6, 1992)

On Friday, July 3, 1992 at about 2:00 p.m., I was at Albertsons on 4th street with my twin boys. As I was walking towards the door to leave, Gerard Hennessey approached me and said, "I will see you in Court very soon, honey". Several people in the store heard him. I was embarrassed. I felt that he was sexually harrassing me. I told him, "good and that I would be glad to go to Court!" He replied that, "We have already accomplished half of what we set out to do, he did lose his election"! He then walked off and I left the store.

/s/Melissa Martin

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS THE 6TH DAY OF JULY, 1992. /s/Patsy Summers, Notary Public

----------**[Document 1 P49]**----------

Affidavit of Jay Helton (December 2, 1992)

STATE OF TEXAS COUNTY OF HALE

WITNESS AFFIDAVIT

BEFORE ME, the undersigned authority, on this the 2nd day of December, A.D. 1992, personally appeared Jay B. Helton, who, after being duly sworn, upon oath deposes and states:

My full name is Jay B. Helton, and I am 31 years of age. I live at 1907 70th, Lubbock, TX. My mailing address is same. My nearest relative is Lisa Fallon, whose address is same.

On or about the first half of April, 1991, the exact date I am unable to recall, I was working as desk Corporal an "A" shift at the jail. I was contacted by Judge Blalack's office requesting a deputy in the courtroom to arrest someone the judge wanted in custody. I proceeded to the courtroom where I observed Judge Blalack begin to speak to someone in very severe tones. After a few moments, one of the Judge's secretaries informed him that he was speaking to the wrong person. The Judge then called up on individual whom I later learned to be a Mr. Henyessy(sic). The Judge began to speak in the same severe tone while periodically slapping the top of his desk with his open hand. When the person tried to respond, he was told to be quiet. After about 5 minutes, Judge Blalack instructed me to take Mr. Henyessy(sic)

to jail. I had Placed Mr. Henyessy(sic) in handcuffs and started to escort him out when the Judge told me to have him reapproach the bench. The Judge again spoke to him in severe tones for about 5 minutes after which he told me to remove the handcuffs as he was not going to put him in jail at this time. He then instructed Mr. Henyessy(sic) to leave his courtroom.
During the time Judge Blalack was speaking to Mr Henyessy(sic), Mr. Henyessy(sic) demeanor was polite, he never raised his voice or cursed at the Judge when allowed to speak. His over all reaction was one of stunned disbelief. Mr. Henyessy(sic) cooperated with the Judge to the best of his ability.

I have read the foregoing statement and it is true and correct.
/s/Jay B. Helton, Affiant
SWORN TO AND SUBSCRIBED BEFORE ME THIS 2ND DAY OF DECEMBER, A.D. 1992.
/s/Charlene Pinkerton, Notary Public, Lubbock County, Texas

----------[Document[P58]----------

Affidavit of Mike Erickson (March 24, 1992)[P52]

STATE OF TEXAS COUNTY OF HALE
WITNESS AFFIDAVIT

My full name is Mike Erickson. I live at 5301 11th, #222, Lubbock, TX. My mailing address is same.

On or about April 9, 1991, I received a call from Precinct 1 Justice of the Peace L. J. Blalack, who indicated he wanted to talk to me about an unrelated matter. I went to the Judge's office at the Lubbock County Courthouse after lunch and told his secretary I was there to see the Judge. She told me to wait in the courtroom. While sitting in the courtroom, I noticed a man, who I later learned was Gerard Hennessey, talking to one of Blalack's secretaries. She asked him if he still wanted the information and he said yes. She said she would have to retrieve it from the garbage can. He told her she was very rude and she said he was too. A few moments later, the Judge came in. While he was talking with another person, Hennessey asked if I was there to see the Judge. I said yes, but it wasn't a legal matter. At that

time, the Judge yelled at me not to talk in his courtroom. After the Judge had dealt with other people and only I and Hennessey were left, I was summoned to the bench. I walked up to the bench and was told to get back in front of the bench. Beore I could identify myself, Judge Blalack demanded to know what I had said to his secretary. I told him I hadn't said anything and he said don't lie. He then summoned the secretary, who told him that he had me confused with Hennessey. I was then told to sit down and Mr. Hennessey was called up to the Judge.

As best I can recall, Judge Blalack wanted to know what Hennessey had done and Hennessey told him he had only come to get a case file. Judge Blalack was yelling at Hennessey and telling him that the office secretaries don't have to take abuse and Hennessey said he wasn't being abusive, that the secretaries were being abusive. At this time, both men were speaking with raised voices and Judge Blalack told Hennessey that he had to show respect for the court or be found in contempt. I thing Hennessey said he was being respectful but said he just wanted a case file and Blalack said he wasn't and ordered a secretary to fill out a contempt order and summon a Sheriff's deputy. A deputy came over and ws told to put Hennessey in custody and the deputy frisked Hennessey and handcuffed him. I thing Blalack then told Hennessey that he would agree to let him go if he apologized for being rude. However, this may have occurred before the deputy was summoned, and that the deputy was summoned only after Hennessey refused to apologize because he did not think he did anything wrong. The Judge then said he would dismiss the complaint charge and appeared to mark across a piece of paper. Hennessey asked if he could have a copy of the order in case Blalack changed his mind. The Judge said he wasn't going to change his mind.

Mr. Hennessey was then sat down, but I do not recall if he was still handcuffed or not. He was either romoved from handcuffs before being sat down of after being brought back before the bench. However, the deputy was told not to let Hennessey leave. The Judge dealt with some other people and then called Hennessey up again. He asked Hennessey what it was

he wanted again and Hennessey told him. The Judge said it would be difficult to get the file, because the files were all jumbled up. Also, the discussion of Hennessey's treatment of the secretary came up again and Blalack said Hennessey knew he sould not have geen rude and gone back into the secretaries area. Hennessey said he did not go into the area and a secretary summoned by the Judge confirmed that Hennessey did not. Blalack then had a secretary write down what Hennessey apparently needed and gave him the slip of paper, after which Hennessey left.

During the incident, I did not hear any profanity and Hennessey always referred to Judge Blalack as Judge, Your Honor, or Judge Blalack. At no time did he appear rude or profane to the Judge. Hennessey was adamant but not offensive.

----------**[Document 1 P 58]**----------

Affidavit of Tami Pisarski (December 1, 1992)

STATE OF TEXAS COUNTY OF HALE
WITNESS AFFIDAVIT

BEFORE ME, the undersigned authority, on this the 1st day of December, A.D. 1992, personally appeared Tami Pisarski, who, after being duly sworn, upon oath deposes and states:

My full name is Tami Pisarski, and I am 21 years of age. I live at 3810 38th, Lubbock. My mailing address is same. My nearest relative is Ted Pisarski (husband), whose address is same. On or about the first week of April, 1991, I was employed as a clerk at the Justice of the Peace office, Pct. 1 for Judge L. J. Blalack. One day, I'm not sure of the date, a man came to our office and requested information on a certain file. I don't remember what the name was on the file but it was something filed in Judge Ross' court. The man was a short white male, kind of balding. The man had an accent but I'm not sure what kind.

The man, who I found out later was named Hennessey, walked into our office and I got up to wait on him. He told me that he wanted to see a file and presented me a piece of paper with a file number on it. As I was new in the office, I asked Julie

Martin what to do. Julie, while setting at her desk, asked the man who he was. The man told Julie he was a member of the public and he wanted to see a file that was a public record. Julie told the man he would have to see the Judge. The reason Julie told the man this was because it was office policy not to let anyone see a file without the Judge's permission. The man then asked Julie Martin if she would put that statement in writing which Julie replied, "No, you will just have to see the Judge."

At this point, Melissa Martin, Julie Martin's sister, walked over to the counter in a very hurried manner and confronted Mr. Hennessey. Melissa Martin told Mr. Hennessey in a very unprofessional belligerent manner to "Go to the Courtroom, just get out and leave us alone." I think this is what she said, I could be wrong as to what her exact words were.

Mr. Hennessey then left out of the office. Approximately 30 minutes later, I saw Mr. Hennessey in the courtroom. The courtroom was full of people and the time to the best of my memory was about 10:30a.m. I remember seeing the following people in the courtroom: a man who I later found out was a reporter for the Avalanche Journal. This man I don't know his name but he was young, approximately 25 years of age, dark hair, tall and thin. There was a police officer in the courtroom that Melissa Martin had called. I don't know his name but he was a big guy and was dressed in a white shirt and brown pants.

I heard Judge Blalack in a very loud and wild manner chew the thin man out for coming into his courtroom and asking for stuff.

After Judge Blalack had beat on his desk and chewed the thin man out for about 2 minutes, I saw Melissa Martin go up to the Judge and whisper something in his ear. At this point, Judge Blalack stopped talking to the thin man and told him to sit down. I then heard and saw Judge Blalack tell Mr. Hennessey to approach the bench. Judge Blalack then started chewing out Mr. Hennessey for being rude to his clerks. Mr. Hennessey was attempting to talk with Judge Blalack but was unable to get the Judge to listen to him. I don't recall Mr. Hennessey talking or arguing in a loud tone of voice. He was trying to explain what he

needed to the Judge but the Judge would not stop hollering at him long enough to understand what he was trying to say.

I then heard Judge Blalack tell Mr. Hennessey that he was going to find him in contempt of court and Judge Blalack ordered the police officer then to arrest Mr. Hennessey. The police officer then placed hand cuffs on Mr. Hennessey and started to lead him from the courtroom. The Judge then told the police officer to bring Mr. Hennessey back which he did. The Judge talked with Mr. Hennessey in a lower tone of voice and I was not able to hear what was being said. The police officer then took the handcuffs off Mr. Hennessey and he left the courtroom.

As soon as the Judge had time, he told Melissa to tell each of us to write a statement concerning what had happened with Mr. Hennessey which we did. My statement consisted of one page that was witnessed by Melissa Martin.

On this date, 12-01-92, Ranger Mull played me a portion of a tape recording and I recognized the following voices: Julie Martin, Melissa Martin, Mr. Hennessey, and myself. This tape is a true and accurate description of what occurred in our office on 04-09-91.

I have read the foregoing statement and it is true and correct. /s/Tami Pisarski, Affiant
Witness: /s/Jim Mull #1512

SWORN TO AND SUBSCRIBED BEFORE ME THIS 1ST DAY OF DECEMBER, A.D. 1991.
/s/Charlene Pinkerton Notary Public, Lubbock County, Texas

----------**[Document1 P60]**----------

Voluntary Statement of Julie Martin (December 3, 1992)

LUBBOCK COUNTY SHERIFF'S DEPARTMENT
VOLUNTARY STATEMENT

THE STATE OF TEXAS COUNTY OF LUBBOCK
December 3, 1992

I, Julie Martin after being duly warned by Jim R. Mull, the person to whom this statement is made, that:

1. I have the right to have a lawyer present to advise me either prior to or during any questioning.
2. If I am unable to employ a lawyer, I have the right to have a lawyer appointed t counsel with me prior to or during any questioning.
3. I have the right to remain silent and not make any statement at all, and that any statement I make may be used in evidence against me at my trial.
4. I understand that any statement I make may be used as evidence against me in court, and
5. I have the right to terminate this interview at any time, and having knowingly, intelligently, and voluntarily waive those rights prior to the making of this statement and hereby knowingly, intelligently, an voluntarily waived those rights, I do hereby make the following free and voluntary statement.

My name is Julie Martin. I live at Rt. 8 Box 101, Lubbock TX. I am 29 years old. My nearest relative is Mark Martin whose relation to me is my brother and who lives at Albuquerque, NM and whose mailing address is unknown.

On 04-09-92, I made a statement concerning an incident that occurred in my office. I was employed as a court clerk for the Justice of the Peace Pct. 1 and my boss was Judge L. J. Blalack.

This statement concerned an incident that happened involving a Mr. Hennessey. In my original statement I stated that Mr. Hennessey talked to me in a rude voice. I would like to say at this time that Mr. Hennessey was not rude in what he said or how he said it. I think what I meant to say it was his attitude and actions.

Mr. Hennessey was very demanding and acted like he wanted the information immediately and did not want to see the Judge.

I would like to make it clear at this time that Mr. Hennessey was not rude or abusive to me and that there is a very strong possibility that I may have treated Mr. Hennessey harshly because of the way his demeanor came across to me. I think that we were having trouble at the office because several of the girls

were quitting and we were trying to train some new clerk and it was very hectic in the office.

I was not in the court room when Judge Blalack was talking to Mr. Hennessey so I don't know what was said. I did not hear Mr. Hennessey yell in the court room.

In my original statement, I said he was also rude to Tami and Melissa but after reflecting on this statement, I think as stated earlier, he was just treating them in the same manner as he was treating me.

I would like to further state that the reason I did not give Mr. Hennessey the information he requested was that I was following policy sat out by Judge Blalack, to require anyone wanting copies of any record to see the Judge before making these records available to that person.

I would also like to further state that Judge Blalack directed me to say some of the things I put in my original statement. He told my sister, Melissa, to tell me to put in my statement that Mr. Hennessey was rude. Judge Blalack told me personally to put in my statement that "I would have given it (the file) to him if I could have located it."

I have read the foregoing statement and it is true and correct. /s/Julie Martin, Affiant

SWORN TO AND SUBSCRIBED BEFORE ME THIS 3RD DAY OF DECEMBER, A.D. 1992.

Charlene Pinkerton, Notary Public Lubbock County, Texas

----------**[Document 1 P63]**----------

Voluntary Statement of Melissa Martin (December 3, 1992)

LUBBOCK COUNTY SHERIFF'S DEPARTMENT
VOLUNTARY STATEMENT
December 3, 1992

I, Melissa Martin after being duly warned by Jim R. Mull, the person to whom this statement is made, that:

1. I have the right to have a lawyer present to advise me either prior to or during any questioning.
2. If I am unable to employ a lawyer, I have the right to have a

lawyer appointed to counsel with me prior to or during any questioning.
3. I have the right to remain silent and not make any statement at all, and that any statement I make may be used in evidence against me at my trial.
4. I understand that any statement I make may be used as evidence against me in court, and
5. I have the right to terminate this interview at any time, and having knowingly, intelligently, and voluntarily waive those rights prior to the making of this statement and hereby knowingly, intelligently, and voluntarily waived those rights, I do hereby make the following free and voluntary statement.

My name is Melissa Martin. I live at Box 180, New Deal, TX. I am 34 years old. My nearest relative is Julie Martin, whose relation to me is my sister and who lives at Rt. 8 Box 101, Lubbock, TX and whose mailing address is same.

On 04-01-91, I was employed as a clerk in Judge Blalack's office. On this date, a man came into our office and asked for a file. This man's name was Gerard Hennessey. We, the clerks who worked for Judge Blalack, were not permitted to give out copies of files unless the Judge approved of it first. I told Mr. Hennessey this and an argument followed and Mr. Hennessey became upset because of his failure to obtain the files.

Later on, Mr. Hennessey talked with Judge Blalack. As a result of this conversation, I was ordered by the Judge to type up a charge of contempt of court against Mr. Hennessey. This charge was later dismissed by Judge Blalack and Mr. Hennessey was allowed to leave.

After Mr. Hennessey left, Judge Blalack ordered all of us clerks to write out statements. Judge Blalack told me to make sure I put in my statement, to tell the other girls to put in their statements, that Mr. Hennessey was argumentive, belligerent, loud, abusive and that he had no alternative except to find Mr. Hennessey in contempt.

When I wrote my statement, I in my own words, did as I was instructed by Judge Blalack. The reason I did this was because Judge Blalack had torn up Rose Marie Chivers statement

and made her re-write it as he directed.

I would like at this time to correct my statement and say that Mr. Hennessey was not loud, abusive, or rude but was irate with the clerks and Judge Blalack because he could not get the information he requested.

The statement I gave on 04-09-91 was given because Judge Blalack was concerned that Mr. Hennessey might make a complaint against him to the Judicial Conduct Commission so he was trying to protect himself in case of an investigation.

So to tell the truth, the statement I made on 04-09-91 is not correct and in my statement when I accused Mr. Hennessey of misconduct, I was not telling the truth but simply obeying the instruction of Judge Blalack.

But in my opinion, Mr. Hennessey is an over bearing, pushy and an arrogant type of individual and I can understand how Judge Blalack lost his temper with Mr. Hennessey.

In my own defense, I would like also to say that Judge Blalack told me to tell Mr. Hennessey to get out of our office and I did.

I have read the foregoing statement and it is true and correct. /s/Melissa Martin, Affiant
SWORN TO AND SUBSCRIBED BEFORE ME THIS 3RD DAY OF DECEMBER, A.D. 1992.
/s/Charlene Pinkerton, Notary Public, Lubbock County, Texas

----------**[Document 1 P65]**----------

Affidavit of Rose Marie Chivers (December 2, 1992)

STATE OF TEXAS COUNTY OF HALE
WITNESS AFFIDAVIT

BEFORE ME, the undersigned authority, on this the 2nd day of December, A.D. 1992, personally appeared Rose Marie Chivers, who, after being duly sworn, upon oath deposes and states:

My full name is Rose Marie Chivers, and I am 35 years of age. I live at 3409 29th Street, Lubbock, TX. My mailing address is same. My last employment was with Lubbock County Judge Blalack. My nearest relative is Rebecca Gonzales, whose

address is 3713 41st Street, Lubbock, TX.

MULL: Today is December 2, 1992. I'm at the home of Mrs. Rose Marie Chivers. What is your address?
CHIVERS: 3409 29th.
MULL: Is there anyone here besides you and I?
CHIVERS: No sir.
MULL: We're here alone?
CHIVERS: Yes sir.
MULL: I talked to you a few minutes ago about a witness affidavit you made back in 1991 while you was employed as a clerk at Judge Blalack's office?
CHIVERS: Yes sir.
MULL: Okay, and you read that statement?
CHIVERS: Yes sir.
MULL: Okay. Would you read that statement for the tape recorder at this time?
CHIVERS: On April 9, 1991, I was in Judge Blalack's office for an interview. At this time I over heard Mr. Gerald Hennessey raising his voice in the courtroom. Mr. Gerald Hennessey did not follow the Judge's orders so at this time I heard the Judge raise his voice and tell him if he did not stop yelling in his court rom he could charge him with contempt of court. The Judge told him at least two more times about charging him with contempt of court before Mr. Hennessey finally settled down. I then walked out of the office and did not hear the rest.
MULL: Okay. Now is this statement that you just read, is it true and correct to the best of your knowledge?
CHIVERS: Yes sir.
MULL: Okay. Is there anything that's not correct in it?
CHIVERS: Except that I never did hear Mr. Hennessey yell, I just heard him raise his voice.
MULL: Okay. So, in here, in your statement where you say that you heard the Judge tell him to stop yelling, you, in fact, did not hear Mr. Hennessey yell at all in the court room?
CHIVERS: No sir.
MULL: Okay. Did you hear any kind of conversation that Mr.

Hennessey had with any of the clerks in the office?
CHIVERS: No sir.
MULL: With Melissa Martin or Julie Martin?
CHIVERS: I just heard Melissa yelling or raising her voice and then come in and tell the Judge Mr. Hennessey was getting belligerent with her.
MULL: Okay, did you hear Mr. Hennessey get belligerent with her?
CHIVERS: No.
MULL: Were you in a position where you could have heard that if he had of been?
CHIVERS: No.
MULL: Where were you?
CHIVERS: I was in the Judge's office.
MULL: Okay. You were in the Judge's office. Where was the Judge?
CHIVERS: In the office with me.
MULL: Okay. Where was Mr. Hennessey?
CHIVERS: Out at the front counter.
MULL: Okay. Where was the Judge when Mr. Hennessey was having his conversation?
CHIVERS: In the court room.
MULL: Where were you?
CHIVERS: In his office. He has two entrances and I was at the front entrance.
MULL: But you could still hear what was going on in the court room?
CHIVERS: No all of it. I could just hear people raising their voices.
MULL: Okay, but you heard, again you heard Mr. Hennessey talk in a louder than normal voice but he wasn't yelling?
CHIVERS: Yes sir. He wasn't yelling.
MULL: He was trying to make himself heard?
CHIVERS: Yes sir.
MULL: Over what? I mean, why was he raising his voice?
CHIVERS: I guess because the Judge was yelling at him.
MULL: The judge was yelling him and he was raising his voice

trying to get the Judge to listen to what he was saying?
CHIVERS: Yes sir.
MULL: I mean, is that what you are saying?
CHIVERS: Yes sir.
MULL: I'm not trying to put words in your mouth. Is that what he said?
CHIVERS: Yes.
MULL: Okay. I mean, is that what you're saying?
CHIVERS: Yes sir.
MULL: Anything else? The rest of this statement then is true and correct to the best of your knowledge?
CHIVERS: Yes sir.
MULL: Okay. Time is 10 minutes till 4:00p.m. and we are still in the residence of Marie's and still present in the room is still you and I. Right?
CHIVERS: Yes sir.
MULL: And this tape recording is being made with your knowledge?
CHIVERS: Yes sir.
MULL: And you gave me a small handwritten copy of another statement. Right?
CHIVERS: Yes sir.
MULL: I wrote it out and you signed it?
CHIVERS: Yes sir.
MULL: Saying that the statement you gave earlier was true except for the fact that you did not hear Mr. Hennessey yell?
CHIVERS: Yes sir.
MULL: Okay, thank you.
MULL: Today is December 2, 1992, it is 5 minutes till 4:00p.m. and I'm still at the residence of Mrs. Chivers and this is information in addition to the statement that Mrs. Chivers just made earlier. Mrs. Chivers, present still is just you and I right?
CHIVERS: Right.
MULL: And this is being made with your permission, this recording?
CHIVERS: Yes sir.
MULL: You told me reference this first statement you read on

tape recording that you gave, now was that the first statement that you made or wrote?
CHIVERS: No sir. I wrote it up and the Judge read it and he wasn't satisfied with what I wrote so then he told me to re-write it and he told me what to write.
MULL: Okay. The second statement that you gave, the one that we just got through reading, Judge Blalack told you what to say in that statement?
CHIVERS: Yes sir.
MULL: He told you what, what did he tell you to say?
CHIVERS: The part about him yelling.
MULL: Okay, about Mr. Hennessey yelling?
CHIVERS: yelling
MULL: Okay. And that wasn't true?
CHIVERS: No sir, because I never did hear Mr. Hennessey yelling.
MULL: Do you remember what day this happened on? It happened on the 9th?
CHIVERS: It happened on the 9th.
MULL: How much later did Judge Blalack come in and tell you to write this statement?
CHIVERS: Oh, I would have to say about 5 or 6 days later.
MULL: Okay. You wrote a statement up and evidently Judge Blalack didn't like the one you wrote and 5 or 6 days after this incident happened.
CHIVERS: No, he asked be to write it up about 5 to 6 days later and then when I thought about it and wrote it up, I then took it into his office and signed it and he said he read it over and he wasn't satisfied with what it said so then he told me I needed to re-write it and he said then add this to it.
MULL: Okay, so you did all that the same day?
CHIVERS: Yes.
MULL: Okay, so you made two statements the same day?
CHIVERS: Yes.
MULL: Okay. So what you are actually telling me now is a conversation we had off tape was that this statement that I have a copy of, it wasn't your original statement?

CHIVERS: No sir it wasn't.
MULL: It was a statement you made at Judge Blalack's direction, he told yo to write this and told you what to say?
CHIVERS: Yes sir.
MULL: But it is true and correct except for the fact about the yelling?
CHIVERS: Yes sir.
MULL: Okay. Time is now 4:00. Is there anything else you want to say or add?
CHIVERS: No sir.
MULL: Okay. Present still is just you and I?
CHIVERS: Yes sir.
MULL: Okay. Thank you very much.

On 12-02-92 Ranger Jim Mull interviewed me reference a statement I made on 04-09-91 concerning a incident with a Mr. Hennessey. I would like at this time to say that the statement I made is true and correct to the best of my knowledge except I did not hear Mr. Hennessey yell in Judge Blalack court at any time.

I have read the foregoing statement and it is true and correct. /s/Rose Marie Chivers, Affiant
Witness: /s/Jim Mull#1512

----------**[Document1 P72]**----------

List of Complainants against L. J. Blalack

(See Page C-49)

----------**[Document 1 P 74]**----------

Gerard Hennessey's Complaint to Texas Judicial Conduct Commission (May 15, 1991)

3206 Manioca Road, Lubbock TX 79403
15 May 1991

Mr. Robert C. Flowers, Executive Director
State Commission on Judicial Conduct[1]

1

(continued on Page 51)

COMPLAINANTS AGAINST L.J. BLALACK

Name	Phone	Address	Summary of complaint
Geraro, Johnnie	762-6650		Told by Blalack to "shut up", not allowed to talk in court, then "since you have nothing to say", jail, no bail
Capetillo, Gloria	741-0133		Threatened mother with jail, not allowed to defend self, $600 fine (see Leal)
Caulfield, Arnold	863-2269	Woodrow	Will give testimony about Blalack's behavior
Connell, Angelia	796-0952		Witness not allowed to testify, threatened atty (O'Shea): jail
Dunlier, Connie	793-1661	1305 32d	Verbal abuse and excessive fine from bench--truancy case (contact her through Anne Mapes, who witnessed abuse)
Gonzales, Lillian	793-1260 (home)		Hospital social worker, witnessed Blalack scream at black
	791-8000 (work)		child (truancy case) for 20 minutes, heard Blalack use racial slurs,i.e."black ass"
Gonzales, Vince	791-4124		Process server--has witnessed Blalack's abuse in court
Helton, J. (Sgt.)	747-4124		Bailiff in Blalack's court, put handcuffs on GH, witnessed Blalack's abuse in court
Hetler, Arthur	892-2003		Bailiff in Blalack's court for 10 years--witnessed illegal, abusive acts in court
Hutchinson, Tony	745-6918		Not allowed to defend himself, 5 days in jail
Jones, Stephen	795-9080 (work)		Witnessed Blalack arrest, fine and jail a boy accompanied by
	799-0370 (home)		pregnant woman for coming into court with his cap on
Kirby, Shirley	747-5370		Arrested twice on Blalack's order, complaint filed by Dan Barnet. Blalack's son in law, Blk abused, threatened her in court, then recused himself: related to Pl'tiff
Leal (see Capetillo)			Uncle of Capetillo, mistaken for political opponent Carlos Leal, arrested by Blalack in court
Leonard, H C Jr.	792-8029 (home)		Private investigator; witness to Blalack's abuse, wrongful
	763-9299 (office)		arrests in court
Morris, NormaJ	792-1412		Complained about wrongful death verdict in Young case
Pinson, Mary L	799-0587		Not allowed to defend self--traffic ticket

COMPLAINANTS AGAINST L.J. BLALACK (continued)

Name	Phone	Address	Summary of complaint
Prcin, Dan	747-4745	1412 24th	Not allowed to defend self--threatened with jail if he said anything--peace bond by woman who took his house
Price, Kay	763-7722		Attorney not allowed to cross examine, $1,000 fine, jail, no evidence
Richards, Bobby	799-2776		Father was shot, died, "left note", but was unable to read or write, "suicide" ruling, not allowed to testify. Blalack refused her request for an autopsy at her expense.
Smith, Johnnie	799-4583		Witnessed abuse of Pinson
Tift, John (&Denise)	795-5682		Jailed twice without cause, once for zipping up his jacket in court, not allowed to defend self
Warren, Sandra	791-2122		Blalack has been reported twice for
West, Kenneth	792-2539		Son not allowed to defend self or speak; verbal abuse in ct.
Wilmington, Orvel	795-0427		Complained to Jud.Cond.Comm.--never interviewed--shown on unofficial list of complainants as "Orville Wright"; jailed when unable to pay $60 fine for missing tax sticker on car

P. O. Box 12265, Capitol Station
Austin TX 78711

Dear Sir

Below is a description of an incident which occurred on Tuesday, April 9, in the court of Justice Blalack in the Lubbock County Court building in Lubbock, Texas. The incident raises several issues which the Council is requested to address, namely:

1. Public access to court records.
2. Whether court clerks, acting as public servants, may violate Federal and state laws at the direction of a Justice.
3. Whether the behavior of justice of the peace Blalack warrants removal from the bench.

On the afternoon of Tuesday, April 9, I went to the Lubbock County Court office to look at some records of cases filed there. They were very courteous and cooperative, helped me find the records, and made copies for me. They did not request my name or any identification.

When I asked for records of cases in Justice Ross' court I was referred to Justice Blalack's office. I requested the records by case number; they requested the case name, which I gave them. The clerk asked "what do you want to know?" I said I would like to look at the file. The clerk asked for my name; I said I am a member of the public and I would like to look at the file. The clerk said, "You cannot look at any files without the permission of Judge Blalack". I said, "Please give me that in writing." She said "I will." Another clerk said, "Oh, no. We won't give you anything in writing. If you want the record, you will have to see Judge Blalack next door." I asked them to return my slip of paper with the case number on it, which the clerk retrieved from the wastepaper basket. The clerk gave me the slip of paper and then screamed at me "Get out of this office and don't come back again!"

I then went to see the clerks in Judge McBeath's office, and told two clerks there that I was very upset because I had been treated very rudely. They said in unison, "You must have

been in Judge Blalack's office". I told them what had happened, and they said they were not surprised because of other similar incidents that had occurred in Blalack's court.

I then went in to Blalack's court. Everything appeared to be very informal. I sat on a bench at right angles to the Judge; he was arraigning two handcuffed prisoners. There were eight people in the court; I whispered to one next to me: "Are you waiting to see the judge?" He replied, "Yes, but it is not court business." Blalack screamed, "Silence in this court! One more word and you will be in contempt!" I walked outside the court. The clerk who had screamed at me to get out of Blalack's office came out into the hallway and asked me for the case number I had requested. I said, "First I will talk to the judge. You have been very rude to me". I went back in the court; the clerk whispered to the judge.

The two handcuffed prisoners were taken out by the bailiff; then the judge called forward the man to whom I had spoken before. Blalack screamed and shouted at this man, telling him that he must not come in and abuse his clerks and that he would send him to jail. At this point, the clerk came to Blalack and whispered to him again, presumably to tell him that he had the wrong man. Blalack then apologized to the man. The man, who was quite shaken, replied to the judge; his replies were inaudible.

Blalack then called me to the bench; he then proceeded to abuse and scream at me in the same fashion as he had to the previous man. Whenever I attempted to protest or explain, Blalack screamed "silence!' and slammed his fist on his desk, and told me that I had abused his clerks and that I had barged into his clerk's office. I started to say, "I have only come here to ask..." Blalack screamed, "Don't argue with me or I will send you to jail!" He then asked me for my name. I gave him my name, and he said, "I don't care who you are. I don't respect you and I know that you don't respect me." He then turned to the clerk, who was standing to his left, and said, "Make out a warrant for this man."He told me to go sit down in the court and told the bailiff, "Make sure he does not leave the court."

Blalack then proceeded with other court business. While he was doing this, I whispered to the bailiff, "What goes on here? Is it always like this?" He said, "Sir, I am not allowed to comment." I said, "Please stay in the court as a witness to this." He said, "I have to stay; I'm not allowed to leave."

Blalack then called me back to the bench. He had three sheets of paper in front of him. He said, "You seem to have calmed down now. I am going to dismiss this case," and proceeded to put cross marks across all three sheets of paper. I then said, "In case you change your mind, please give me one of those papers." He then screamed "You're going to jail!" and ordered the bailiff to put handcuffs on me. He then said, "Take him away." When we got to the door of the court, he said "Come back here." He said, "Now. I am going to give you one more chance. If you apologize to me, to my court, and to my girls, I will let you go." I stood and stared at Blalack and he stared at me for about a minute. He then said, "Are you man enough to apologize?" I then said, "If you will allow me to speak," (at this point Blalack nodded) "if I had done something that I should apologize for, I would, but I have not." He then said, "You have barged into my office." I said, "I have not barged into any office." He then called the clerk and asked the clerk if I had gone over the barrier; she said no. He then said, "In that case you have done nothing wrong. I am going to dismiss the charge. Take the handcuffs off." The bailiff took the handcuffs off.

Then Blalack said, "Why have you come to this court?" I replied, "To see the file number on this slip." I read him the number on the slip. He asked who was in the case; I told him. I said I wanted to see the file on the Edwards case. He said, "Why doesn't he come and get it himself?" I replied that Edwards lives in Houston. Blalack said, "Are you a lawyer or a detective? What has this to do with you?" I said, "I am just a friend of Edwards." Blalack said, "All of Judge Ross' files are in another building." I asked to look through them to find the Edwards case file. Blalack said "You would never find it; only my clerk could find it because they know where things are. What exactly do you want to know about the case anyway?" At this

point, my main concern was to get out o the presence of Blalack.

I told him, "I just need the settlement figure." He turned to the clerk and said, "Give him this." She went tot he office and within a few seconds, she returned to the judge and whispered to him; he wrote a figure on a sheet of paper and gave it to me. He said "Is this what you want?" I said "Yes." He said, "You can go." I departed.

I then went through the corridor to Justice Hansen's office and asked to see him; I also asked the bailiff to accompany me. I told him about the incident and I asked the bailiff whether I could have done anything to avoid the incident. He replied, "When Blalack is in this mood, no one can do anything." Hansen gave me a slip of paper with the address of the Judicial Commission in Austin and suggested I write to them. I then went back to McBeath's office and spoke to McBeath and his staff, describing the incident. McBeath apologized to me on behalf of Lubbock County Court; he also gave me a slip of paper with the address of the Judicial Commission and recommended I contact them.

The following morning, I went with my attorney Sam Ogan to Blalack's office. Blalack met with my attorney while I waited in the lobby because Blalack's clerk refused to allow me past the barrier. Blalack told my attorney that the incident was a big misunderstanding and that he had straightened everything out. Blalack also told Ogan that at one point I had just stared at him. Blalack told Ogan he was sending "empathic telepathic communication" to me directing me to say "I apologize. I apologize". Blalack also agreed to produce a copy of the file I had requested at $2 a page. Ogan offered to go to the old building to look for the file himself, but Blalack said his staff would do it and the copies would be available the following day. Over the next few days I spoke with several lawyers and members of the public who recounted "horror stories" of the judge's conduct of which they were aware.

The matters about which I am complaining are:

1. Blalack has directed his staff not to allow anyone, including attorneys, to see files from his own and Ross' court.

This is a violation of state and federal law; as a member of the public, I have right to see pubic court records.

2. Blalack's court clerks followed his instructions in violation of state and federal laws guaranteeing public access to court records.

3. I was arrested, detained and abused by Blalack for no reason.

4. I still have not been allowed access to the court records I requested.

Actions required to redress these matters are:

1. Justice Blalack should be ordered to provide public access to all court records under his jurisdiction.

2. Clerks working in Blalack's office must be required to perform their legal responsibility to provide public access to court records, despite directions to the contrary by Blalack.

3. A video camera should be installed in Blalack's courtroom and tapes of his daily conduct of court business should be reviewed regularly by a panel of local citizens, reporters, attorneys and public officials.

4. Serious consideration should be given to removing Blalack from the bench because his actions are serious and grievous breaches of legal rights of Lubbock citizens, which could result in lawsuits against the county.

5. I should be provided access to the case files I originally requested.

Yours truly

/s/ G. HENNESSEY

----------[DocumentP78]----------

TJCC letter of acknowledgment (May 24, 1991)

Texas State Commission on Judicial Conduct
May 24, 1991

Mr. G. Hennessey
3206 Manioca Road
Lubbock, Texas 79403

Dear Mr. Hennessey:

We have received your letter concerning a Texas judge and will review it as soon as we can. Following any investigation or inquiry we consider appropriate, the State Commission on Judicial Conduct will either dismiss the complaint, impose sanctions against the judge, or take other appropriate action. For your information, the Commission's activities are governed by Article V, Section 1-A of the Texas Constitution and Chapter 33 of the Government Code in the Texas Revised Civil Statutes. We will let you know what action the Commission takes on your complaint.

Sincerely,
/s/Robert Flowers

----------**[Document1 P79]**----------

TJCC letter dismissing complaint (December 20, 1991)

Texas State Commission on Judicial Conduct
December 20, 1991

Mr. G. Hennessey
3206 Manioca Road
Lubbock, Texas 79403

Dear Mr. Hennessey:

During its regularly scheduled meeting on December 13, 1991, the Commission on Judicial Conduct considerred your complaint against a Texas judge. At that time the Commission determined that the actions of the judge did not rise to the level of judicial misconduct. Therefore your complaint was dismissed.

We thank you for your interest in the Texas judiciary.

Yours truly,
/s/Robert Flowers

----------[Document 1 P80]----------

Gerard Hennessey's request for reconsideration of complaint (January 22, 1992)

3206 Manioca Road
Lubbock TX 79403

January 22, 1992

Mr. Robert Flowers, Executive Director
State Commission on Judicial Conduct
P. O. Box 12265
Austin TX 78711

Dear Mr. Flowers,

Justice of the Peace L. J. Blalack
Complaint of judicial misconduct

Thank you for your letter of December 20, 1991, advising me that my complaint against Judge Blalack has been dismissed by the State Commission on Judicial Conduct.

It is clear that you have not pursued this and several other complaints in accordance with administrative procedures which specify an examination of the facts, which you have not done. You did not interview me or any of the other complainants except for Judge Hanson.

This is a request that the Commission reconsider my complaint and that the matter be properly investigated before being brought again before the Commission.

Yours truly,
/s/ Gerard Hennessey
cc: Ann Richards, Charles Smith

----------[Document 1 P 81]----------

TJCC letter refusing to reconsider G Hennessey's complaint (April 6, 1992)

Texas State Commission on Judicial Conduct
April 6, 1992

Mr. G. Hennessey
3206 Manioca Road
Lubbock, Texas 79403

Dear Mrs. Vega:(sic)

At its regularly scheduled meeting on February 14, 1992, the Commission on Judicial Conduct considered your request for a rehearing in a case previously determined by the Commission. The Commission voted to not reconsider this matter and considers the matter concluded.

Sincerely,
/s/Robert Flowers

----------[Document 1 P84]----------

TJCC letter agreeing to reconsider G Hennessey's complaint (August 25, 1992)

Texas State Commission on Judicial Conduct
August 25, 1992

Mr. Gerard Hennessey
3206 Manioca Road
Lubbock, Texas 79403

Dear Mr. Hennessey:

We have received your letter concerning a Texas judge. The portion of the letter which pertained to your earlier complaint will be added to that file and, per your request, the Commission will reconsider your earlier complaint. Additionally, the Commission will open a new complaint regarding the recent matter described in the newspaper article which you enclosed in

your letter.

We will let you know what action the Commission takes on your complaints.

Yours truly,
/s/Robert Flowers

----------**[Document 1 P85]**----------

TJCC letter dismissing G Hennessey's complaint (October 15, 1992)

Texas State Commission on Judicial Conduct
October 15, 1992

Mr. Gerard Hennessey
3206 Manioca Road
Lubbock, Texas 79403

Dear Mr. Hennessey:

At its regularly scheduled meeting in Austin, Texas on October 9, 1992, the State Commission on Judicial Conduct considered your new complaint an your request for a rehearing on a previous matter. The Commission noted that the judge has resigned from the bench. Therefore, the Commission voted to dismiss these matters.

We thank you for bringing these matters to our attention.

Sincerely,
/s/Robert Flowers

----------**[Document 1 P 87]**----------

Cause No. 92-536963 in 364th District Court: Linda Ann Vega and Gerard Hennessey's Original Petition for Immediate Suspension and Removal of L. J. Blalack (January 30, 1992)

Cause No. 92-536963 in the
364th District Court Lubbock County, Texas

State of Texas ex.rel. Gerard Hennessey and Linda Ann Vega v. Justice of the Peace L. J. Blalack

ORIGINAL PETITION FOR IMMEDIATE SUSPENSION AND REMOVAL OF PUBLIC OFFICIAL

To the Honorable Judge of Said Court:

COME NOW LINDA ANN VEGA AND GERARD HENNESSEY, PETITIONERS, complaining of JUSTICE OF THE PEACE, L. J. BLALACK, PRECINCT 1, PLACE 1, hereinafter called RESPONDENT, and for cause of action would show the Court the following:

I. Petitioners LINDA ANN VEGA and GERARD HENNESSEY reside in Lubbock, Lubbock County, Texas.

Respondent L. J. BLALACK is an individual and is a resident of Lubbock County, Texas, and may be served with process at his place of employment, 800 Broadway, Room 106, Lubbock, Texas.

II. Petitioners would show that said Respondent has shown gross ignorance of official duties and gross carelessness in the discharge of those duties. Petitioners would also show that Respondent's intentional and unlawful behavior relating to his duties constitute official misconduct as defined under Texas Constitution, Article 15, Section 87.013, and that such misconduct applies to Respondent as an officer intrusted with the administration of justice and execution of the law as specified in Article 5973 of the Texas Civil Statutes.

Jurisdiction of the District Court in this matter is established in Article 5976 of the Texas Civil Code, which specifies that all petitions to initiate proceedings for the removal of public officers are to be filed in the district court of the county in which the officer resides.

III. 1. Petitioner LINDA ANN VEGA would show that on January 3, 1990, she and her minor child were verbally abused by Respondent who issued a warrant on her husband during a truancy hearing brought by Lubbock Independent School District. Petitioner would also prove that she and her family were tried, convicted and sentenced at a hearing and unlawfully detained for more than six hours. Petitioner would prove that Respondent

acted in willful and reckless ignorance of his duties in that he heard the case against Petitioner although his Justice Court did not have jurisdiction over the precinct of which Respondent is a resident, as is specified in Texas Education Code 4.25.

2. Petitioner GERARD HENNESSEY would show that on April 9, 1991, he was denied and impeded exercise of his rights of access to court records by Respondent, a duty plainly enjoined upon Respondent in Texas Government Code Section 27.004(a), which stipulates that all papers filed in a case in justice court shall be subject to the inspection of any interested party at reasonable times. As established in Pacacios v Corbett (Civ.App. 1915) 172SW 777, nothing in Articles 5970, 5976 or 5977 of the Texas Civil Code deprives a citizen of this right. Respondent's denial of access to court records under his direct control fulfills the conditions for removal from office for official misconduct described in Reyna v. State (Civ.App.1959) 319 SW 2d 28, affirmed 160 T.404,333 SW 2d 832. As stated in Article 15 Section 87.001 (3) of the Texas Constitution, official misconduct includes an intentional refusal of an official to perform a duty enjoined on the officer by law; his action need not come under the Criminal Code to constitute official misconduct.

3. Petitioner GERARD HENNESSEY would also show that his request for access to court records was the immediate precursor to Respondent's intentional subjection of Petitioner to wrongful arrest and detention without lawful cause, which is specified as grounds for removal from office for official misconduct in Jones v. State (Civ. App. 1937) 109 SW 2d 244.

III. By reason of the above and other incidents that shall be brought before the District Court, Petitioners will prove that Respondent L. J. Blalack has violated the duty of a Justice of the Peace and that Respondent has shown official misconduct of such a serious nature, frequency, and duration to warrant immediate suspension from his office to prevent continued violation of the rights of Lubbock residents that come before him in Justice Court Precinct 1, Place 1.

IV. Petitioners pray for immediate suspension and removal of said Justice of the Peace, L. J. Blalack, Precinct 1 Place 1 from

his office in accordance with Article 5, Section 1 a (6) A of the Texas Constitution.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioners request that Defendant be cited to appear and answer.
/s/ Linda Ann Vega, Pro Se
/s/ Gerard Hennessey, Pro Se

----------**[Document 1 P 93]**----------

Lubbock County Grand Jury Indictments, January 8, 1993

.....**93-416323**.....

L. J. Blalack, Official Oppression of Gerard Hennessey
Filed January 8, 1993 in District Court Lubbock County
/s/ Wayne LeCroy
The State of Texas vs. L J Blalack
No. 93-416323 PID: 103287 DOB: 12/09/22
Misdemeanor Charge: OFFICIAL OPPRESSION
District Court No: 364th Bail Recommended: $2,000.00
Date Prepared: 01/08/93 Ref#: 359394 Agency/Rpt#: DPS
In the Name and by Authority of the State of Texas:

The duly organized Grand Jury of the District Court of Lubbock County, Texas, presents in and to said Court that in Lubbock County, Texas, L J BLALACK, hereafter styled the Defendant, heretofore on or about the 9TH DAY OF APRIL, 1991, did then and there intentionally subject GERARD HENNESSEY to arrest that the defendant knew was unlawful, and the defendant was then and there acting under color of his office as a public servant, namely, Justice of the Peace, Lubbock County, Texas;
AGAINST THE PEACE AND DIGNITY OF THE STATE.
/s/Modesto Esquivel Foreman of the Grand Jury
PRESENTED THIS 8 DAY OF JANUARY, A.D. 1993

.....**93-416324**.....

L.J.Blalack, Official Misconduct
Filed in District Court Jan. 8, 1993 /s/ Wayne LeCroy
The State of Texas vs. L J Blalack

NO. 93-416325 PID: 103287 DOB: 12/09/22
Felony Charge: AGGRAVATED PERJURY
District Court No: 364th Bail Recommended: $5,000.00
Date Prepared:01/08/93 Ref#: 359399 Agency/Rpt#: DPS
In the Name and by Authority of the State of Texas:

The duly organized Grand Jury of the District Court of Lubbock County, Texas, presents in and to said Court that in Lubbock County, Texas, L J BLALACK, hereafter styled the Defendant, heretofore on or about the 30TH DAY OF NOVEMBER, 1992, did then and there with intent to deceive and with knowledge of the statement's meaning, intentionally and knowingly make a false statement under oath, namely, that the sworn statements made by Rose Marie Chivers, Melissa Martin, and Julie Martin concerning the conduct of Gerard Hennessey on April 9, 1991, in the office and courtroom over which the defendant presided as Justice of the Peace for Lubbock County, Texas, were in fact true statements, such sworn statement made by the defendant being then and there required by law to be made under oath, while the said defendant was then and there under an oath administered by Terry D. McEachern, Special Prosecutor, Lubbock County, Texas, under the direction of Clark Barnett, Foreman of the Lubbock County, Texas Grand Jury for the 237th District Court, such statement being false in that the defendant instructed Melissa Martin, Rose Marie Chivers, and Julie Martin to make statements that the said Gerard Hennessey was loud, rude, and abusive in the office and courtroom of said defendant, when such statements were false and untrue, and such false sworn statement by the defendant was then and there made during, and in connection with, an official proceeding, to-wit: a Grand Jury investigation, and said false sworn statement was then and there material to such proceeding in that the defendant was under investigation by the said Grand Jury for official oppression;
AGAINST THE PEACE AND DIGNITY OF THE STATE.
/s/Modesto Esquivel, Foreman of the Grand Jury
PRESENTED THIS 8 DAY OF JANUARY, A.D. 1993

----------93-416325----------

L. J. Blalack, Aggravated Perjury

Filed in District Court, Lubbock County January 8, 1993
/s/Wayne LeCroy
The State of Texas vs. L J Blalack
No. 93-416324 PID: 103287 DOB:12/09/22
Misdemeanor Charge: OFFICIAL MISCONDUCT
District Court No: 364th Bail Recommended: $2,000.00
Date Prepared: 01/08/93 Ref#: 359395 Agency/Rpt#: DPS
In the Name and by Authority of the State of Texas:

The duly organized Grand Jury of the District Court of Lubbock County, Texas, presents in and to said Court that in Lubbock County, Texas, L J BLALACK, hereafter styled the Defendant, heretofore on or about the 7TH DAY OF AUGUST, 1992, did then and there with intent to obtain a benefit, intentionally and knowingly misapply postage and stationary of the value of two hundred dollars ($200.00) or more but less than seven hundred fifty dollars ($750.00), belonging to the government, namely, DON MCBEATH, County Judge, Lubbock County, Texas, which came into the defendant's custody and possession by virtue of the defendant's office as a public servant, namely, Justice of the Peace, Lubbock County, Texas; AGAINST THE PEACE AND DIGNITY OF THE STATE.
/s/Modesto Esquivel, Foreman of the Grand Jury
PRESENTED THIS 8 DAY OF JANUARY, A.D. 1993

.....93-416326.....

L.J.Blalack, Official Oppression of Linda Ann Vega

Filed in District Court, Lubbock County, January 8, 1993
/s/ Wayne LeCroy
The State of Texas vs. L.J. Blalack
NO. 93-416326 PID: 103287 DOB: 12/09/22
Misdemeanor Charge: OFFICIAL OPPRESSION
District Court No: 364th Bail: $1,000.00 Date Prepared: 01/08/93
Ref#: 359475 Agency/Rpt#: DPS
In the Name and by Authority of the State of Texas:

The duly organized Grand Jury of the District Court of Lubbock County, Texas, presents in and to said Court that in Lubbock County, Texas, L J BLALACK, hereafter styled the Defendant, heretofore on or about the 3RD DAY OF JANUARY, 1990, did then and there intentionally subject LINDA VEGA to arrest that the defendant knew were unlawful, and the defendant was then and there acting under color of his office as a public servant, namely, Justice of the Peace, Lubbock County, Texas;
AGAINST THE PEACE AND DIGNITY OF THE STATE.
/s/Modesto Esqivel, Foreman of the Jury
PRESENTED THIS 8 DAY OF JANUARY, A.D. 1993

.....93-416327.....

Melissa Martin, Perjury

Filed in District Court, Lubbock, County January 8, 1993
/s/ Wayne LeCroy
The State of Texas vs Melissa Martin
No. 93-416327 PID: 67656 Misdemeanor Charge: PERJURY
District Court No: 364th Bail: $2,000.00 Date Prepared: 01/08/93
Ref#: 359460 Agency/Rpt#: DPS
In the Name and by Authority of the State of Texas:

The duly organized Grand Jury of the District Court of Lubbock County, Texas, presents in and to said Court that in Lubbock County, Texas, MELISSA MARTIN, hereafter styled the Defendant, heretofore on or about the 9TH DAY OF APRIL, 1991, did then and there with intent to deceive and with knowledge of the statements' meanings, intentionally and knowingly make two inconsistent statements under oath, one of the two statements being necessarily false, the first of such statements being that Gerard Hennessey was belligerent and argumentative with Justice of the Peace L J BLALACK on April 9, 1991 in the Justice of the Peace courtoom, such sworn statement being then and there authorized by law to be made under oath, while the said defendant was then and there under an oath administered by Debra Chambers; Notary Public in and for

the State of Texas, and the second of such statements being that Gerard Hennessey was not belligerent or argumentative to I. J BLALACK on April 9, 1991, such statement being then and there authorized by law to be made under oath, while the said defendant was then and there under an oath administered by Charlene Pinkerton, Notary Public in and for the State of Texas; AGAINST THE PEACE AND DIGNITY OF THE STATE.
/s/Modesto Esquivel, Foreman of the Grand Jury
PRESENTED THIS 8 DAY OF JANUARY, A.D. 1993

==CERTIFICATION OF CLASS ACTION [Document 52]==

5:93-CV078-C

MOTION FOR CERTIFICATION OF A COMPLAINT AS A CLASS ACTION

To the Honorable Judge of Said Court:

NOW COME Plaintiff Gerard Hennessey and Petitioner to Join Action, who respectfully request the Court to Certify the above Action as a Class Action and submits herewith a Brief in Support of said request. Grounds for said request are as follows:

I. BASIS OF THE COMPLAINT

1. WHEREAS Plaintiff and Petitioner in the above-referenced complaint alleges that Defendant L. J. Blalack, while acting in his capacity as Justice of the Peace for Precinct 1 in Lubbock County, over a number of years, did knowingly intentionally with wanton and callous disregard for the rights of Lubbock citizens, and as a matter of policy and common practice:

a. Deny and cause others to deny Plaintiff, Petitioner and other Lubbock citizens access to public records under his control;

b. Deny Plaintiff, Petitioner and other Lubbock citizens and their attorneys the right to present a defense, to confront their accusers and to challenge allegations made against them;

c. Inflict upon Plaintiff, Petitioner and other Lubbock citizens verbal abuse, excessive fines, penalties and other charges in contravention of the statutes and judicial canons of the State of Texas;

d. Cause Plaintiff, Petitioner and other Lubbock citizens to be detained in his court without just cause or due process, for the specific purpose of terrorizing them so as to deter them from exercising rights to which they are entitled and so as to extort money from them in the form of excessive fines, penalties and other levies;

e. Arrest Plaintiff, Petitioner and other Lubbock citizens and direct some of them to be imprisoned, in order to extort money from them and to forcibly dissuade them from taking actions affecting Defendant Blalack and his associates to which said citizens were entitled by law;

f. Cause false statements about Plaintiff and other Lubbock citizens to be prepared, executed and sworn with the stated aim of enabling Defendant Blalack and others to avoid responsibility for illegal and wrongful actions;

g. Cause and allow materials contained in public records under his control to be altered or removed;

h. Fail to provide to Plaintiff, Petitioner and other Lubbock citizens equal protection under the law;

2. WHEREAS none of the co-Defendants took any action to remove Defendant Blalack from office for any of the causes described in Paragraph 1 above, nor did they make any attempt to control, mitigate or to limit the adverse effects on Plaintiff, Petitioner and other Lubbock citizens of the illegal and wrongful actions described in Paragraph 1 above;

3. WHEREAS most of the co-Defendants directly or indirectly benefited personally and/or profited financially from said actions and failures to act, and this constituted the mechanism by which the alleged conspiracy and corrupt enterprise was maintained over an extended period of years and for which RICO relief is requested;

4. WHEREAS none of the co-Defendants made use of any remedies and corrective actions available to them, of which Plaintiff and other Lubbock citizens and officials did avail themselves, such as:

a. Filing complaints with Lubbock County Commissioners

and the Texas Commission on Judicial Conduct;

b. Fully and impartially investigating and reporting on said complaints;

c. Making public statements of concern, disapproval and protest;

d. Reducing or recommending reduction of the salaries of Defendant Blalack and his staff commensurate with the nature and extent of their known official misconduct, such as invoking the Texas statutory provision for deduction of one month's salary for each month in which a public servant can be shown to have denied access to public records;

e. Refusal to cooperate with or facilitate illegal or wrongful actions;

f. Ensuring that materials missing from public records be produced and made available to Plaintiff and other Lubbock citizens upon request;

II. CLASS ACTION ALLEGATIONS

5. WHEREAS the number of members of a group of Lubbock citizens, each of whom can be shown to have been harmed by the abovedescribed actions and inactions of said Defendants in a manner similar to and as part of the same conspiracy and corrupt enterprise as that complained of by the Plaintiff, is known to exceed 50, and that each member has sufficient basis to commence an Action against one or more of the same Defendants for the same causes and to seek the same or similar remedy, further that the questions of law and fact are of the same or similar nature or have a similar means of proof, and finally that joinder of all said members to the current Action is impracticable;

6. WHEREAS the majority of the members of said group of Lubbock citizens lack resources to obtain adequate representation to protect their interests and to seek suitable remedy for the damages sustained by said members, and further that settlements by Plaintiff, Petitioner and other Lubbock citizens individually could have the effect of preventing members of said group from access to materials relevant to their causes, an example being determination of the issue of judicial immunity based on a

longstanding pattern of callous and wanton disregard for citizens' civil rights;

7. WHEREAS the amounts at stake for many of the individuals injured by the conspiracy are so small as to render individual action impracticable, with the result that Defendants MacBeath, Flowers, Neal and Greathouse--all charged by the State of Texas with the duty of bringing such abuses to an end--did neglect to adequately investigate and deal with numerous individual complaints about abuses by Defendant Blalack, and have to the present day failed to make any effort to contact members of the group known to be due refunds and other restitution;

8. WHEREAS said actions and inactions by Defendants can be shown to have had a chilling effect on efforts by members of the group and others to mitigate and eliminate said abuses, and that the Defendants' positions of power and influence and the resources available to Defendants in comparison to that of members of the group is such that a just result from single party actions is improbable;

9. WHEREAS Plaintiff and Petitioner undertake to seek representation by counsel if members of the group are included as a Class in the current Action, and that said counsel will proceed on a contingency basis to act on their behalf to seek appropriate remedy, or alternatively Plaintiff and Petitioner will petition the Court to appoint counsel for the Class;

10. WHEREAS Plaintiff and Petitioner undertakes to advertise in local newspapers in order to contact members of the group, and to use the funds received from Defendant J. David Nelson, as described in his Answer to the current Complaint, to pay for said contact efforts;

11. WHEREAS discovery will involve inspection of the following:

a. All correspondence and records produced during the tenure of Defendant L. J. Blalack as Justice of the Peace for Lubbock County Precinct 1, including records that have been removed from Lubbock County Courthouse archives such as but not exclusively shucks from 1982 through September 1992, inquests of Stuart Harrison and others, and restoration of references to those or other records that have been removed from the Lubbock

County computer;

b. All personal financial records of Defendants L. J. Blalack, Don MacBeath, Robert Flowers, Melissa Martin, Julie Martin, Patsy Summers, Rose Marie Chivers, Lyn Duval, and Diana Holloman and others associated with them including Dwight Lusk, and Colene Fielding during the tenure of L. J. Blalack as Justice of the Peace for Lubbock County Precinct 1.

c. All financial records of Lubbock County and Lubbock Independent School District including revenue and other income (excluding those from property taxes, expenditures), travel and expense vouchers, payroll including overtime and all employee reimbursements, incentive bonuses, fees to county or other public officials, or any other document relevant thereto.

c. All records received and produced by the Texas Commission on Judicial Conduct regarding Defendant L. J. Blalack and Lubbock County during the tenure of L. J. Blalack as Justice of the Peace for Lubbock County Precinct 1.

d. All records of Lubbock County Jail covering the period of tenure of L. J. Blalack as Justice of the Peace for Lubbock County Precinct, including records of the work release program.

e. All records of Lubbock County Youth Center during the tenure of L. J. Blalack as Justice of the Peace for Lubbock County Precinct 1.

f. All records regarding Lubbock County Justices of the Peace and candidates to office thereof during the tenure of L. J .Blalack as Justice of the Peace for Lubbock County Precinct 1 in the possession of Judge John Knowles and other officials responsible for Justice of the Peace training sessions and conferences involving them.

g. All records regarding claims and actions by Bill Suter and/or Movie Source in the possession of J. David Nelson, Jim Bob Darnell, and the Lubbock County District Attorney.

NOW THEREFORE Plaintiff and Petitioner respectfully request the Court to certify that present Action be designated a Class Action;

Plaintiff and Petitioner further request the Court to deny motions to protect Defendants from discovery until such time as

information obtained from the documents, records, and requests for admission and information can establish whether sufficient basis for a class action exists. Plaintiff and Petitioner claim that resolution of the issue of any form of immunity depends on determination of whether conduct of Defendant Blalack and other Defendants was sufficiently aberrational, out of jurisdiction, and administrative/prosecutorial in nature as to remove said actions from the realm of judicial immunity, as Plaintiff and Petitioner claim.

Plaintiff and Petitioner also request the Court to deny Defendants' Motions for Dismissal on the grounds that the Complaint claims each Defendant's liability is based on matters of law and fact involving rights entitlements and damages of the proposed Class that need to be considered and dealt with by the Court and a Jury of Fact.

Respectfully submitted,

/s/Gerard Hennessey /S/Linda Ann Vega

----------**[Document 52 P380]**----------

Excerpts from appendix to District Court Document 52 in support of Motion for Certification of Action as a Class Action

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Dispute erupts in courthouse: Hansen files judicial conduct complaint against Blalack, by Grady Simmons Avalanche-Journal June 21, 1991

Relations between the county courthouse's oldest and youngest magistrates came under heavy strain Thursday when Justice of the Peace Jim Hansen filed a complaint with the state Commission on Judicial Conduct against Justice of the Peace L.J. Blalack.

Hansen, 35, who took office in January, said he filed the complaint after Blalack, 68, upbraided him in court Wednesday before a number of people over a point of judicial procedure.

The flare-up, Hansen said, stemmed from Hansen's signing of a bond reduction recommendation in a case filed in Blalack's court.

"A lawyer brought me a bond reduction recommendation

that had been signed by an assistant district attorney," Hansen said. "The lawyer told me that Judge Blalack was away from his office, so I signed it in the judge's absence, and the lawyer went away."

Less than an hour after he signed the document, a sheriff's deputy came into Hansen's office and told him that Blalack wanted to see him in Blalack's courtroom, Hansen said.

"When I walked into Blalack's courtroom, which was full of people, he started ranting and raving," Hansen said. "He started waving a piece of paper around and yelling, 'Did you sign this bond reduction? I'm going to report you to the Commission of Judicial Conduct.'"

Hansen, who said he was embarrassed by Blalack's outburst, told the judge it would not happen again, turned and walked out of the courtroom.

"I don't like to see a judge filing complaints against another judge, but he left me no choice," Hansen said. "Since I came into office, I have watched Blalack abuse citizens, employees and law offices. That's improper for a justice of the peace.

"He wouldn't do it to (Criminal District Attorney Travis) Ware or to (County Judge Don) McBeath, and he's not going to do it to me. We're equals...I won't tolerate it."

Blalack, contacted Thursday about the clash, denied that he had yelled at Hansen and said he merely had been "emphatic" in speaking to him.

"He usurped my authority and interrupted justice in my court by signing that document," Blalack said. "He violated judicial codes of ethics and principles.

"I talked a little louder because I was being emphatic. I wasn't yelling at him, but I was giving him as much consideration as I could in view of his antagonism when he came in here."

Told that Hansen claimed he had signed the bond reduction recommendation with the understanding that the presiding magistrate was away from the office, Blalack appeared incredulous.

"He knew I was in my office; I'm in every day," Blalack

said. "He shouldn't have gone on anyone's word that I wasn't in my court.

"Jim should have been more discreet in any action he took. He could have taken five steps to my office and asked me about it, but it appears he didn't do that because he wanted to be antagonistic toward me."

Blalack said Hansen's filing of a formal complaint will strain relations between the two judges.

"If he's gone so far as to file a formal complaint, he'll get burned because he was wrong," the senior judge said. "He will make the situation very, very serious, and I won't be able to accommodate Jim Hansen anymore."

Blalack admitted that he may have stepped on Hansen's toes by dressing him down in front of litigants in his courtroom but said Hansen should not have taken the experience personally.

"I guess I stepped on his toes by being emphatic, but I don't back down from anybody," Blalack said. "A lot of people don't like me, either. I get criticisms as well as accolades."

Bill Hornung, general counsel for the Commission on Judicial Conduct said Thursday that the commission is forbidden by law from confirming or denying whether citizen complaints have been filed against judges.

The commission, Hornung said, will reveal proceedings only when a public sanction is issue against a judge or when the commission convenes a public hearing to remove a judge from office.

County commissioners, who have no authority or responsibility in disciplining magistrates, will not get involved in the spat, County Judge Don McBeath said.

Neither judge appears ready to throw in the towel in their dispute.

"I've tried to be calm and patient, but he crossed the line," Hansen said. "A justice of the peace is supposed to treat people decently, but Blalack interrupted a hearing to yell and scream at me. He intentionally tried to humiliate me publicly."

"If Jim filed a complaint, I'll get an attorney because I know he'll try to alienate relations between us further," Blalack

said.

Questions still linger in shooting. by Cleo Beard, Avalanche-Journal July 5, 1991

Reasons behind the shooting death of Stuart Harrison have remained in question since his body was found slumped behind the wheel of his 1969 Ford Mustang in an alley almost three years ago.

Police saw it as a case of suicide. But a former magistrate ruled that Harrison died accidentally.

An insurance investigator, who just weeks ago interviewed police involved in the case, apparently has nagging suspicions that the death was no accident. And several people who knew Harrison believe that his death was neither an accident nor a suicide.

Harrison, a second-year psychiatric resident at Texas Tech University's Health Sciences Center, was found dead in the 4100 block of 35th Street on Oct. 19, 1990.

Police conducted a brief homicide investigation, questioning several people. But they later determined the death to be a suicide.

Evidence led police to rule out homicide or an accident, according to police Sgt. Randy McGuire.

"In a case like this, you don't determine what is was but what it wasn't," McGuire said. "We're pretty certain it was suicide."

But 52 days later, former Justice of the Peace L.J. Blalack ruled the death an accident.

"I ruled the way I did because the police didn't generate enough evidence to rule homicide," Blalack said. "And I felt that the police department explanation of how it may have been suicide contained too much conjecture. It didn't convince me. So the only options left were natural or accidental.

Harrison died from a close-contact gunshot wound, according to an autopsy report by Dr. Ralph Erdmann, the former forensic pathologist who lost his standing here after

submitting many bogus autopsy reports.

A .38-caliber revolver belonging to Harrison was found lodged between the driver's seat and the console of the car.

The condition of Harrison's wound convinced detectives that Harrison shot himself. A close-contact wound could not be sustained by a loose weapon, McGuire said. And considering Harrison's size and background as a nightclub bouncer, it is unlikely that someone other than Harrison could have held the gun against his head in such a way and pulled the trigger, McGuire said.

Blalack's file containing the autopsy report, his notes and police records in the Harrison case was missing from his former office, according to Justice of the Peace Tom Head, Blalack's successor.

Blalack said he did not know where the file is.

Blalack's death ruling notwithstanding, two insurance companies have contested claims on Harrison's insurance policies.

He took out several life insurance policies worth up to a $1 million before his death, according to police.

Commercial Insurance Co. of Newark, N.J., fought a $250,000 accidental death claim by Minson Y. Harrison in 1991. Commercial's New York attorney, Scott Kloktpek, said the matter had been settled but would not discuss specifics.

Another insurance company, Equitable Insurance of New York, only weeks ago questioned local lawmen involved in the case, police confirmed.

The civil case between Harrison's widow and Equitable is scheduled to be tried in a Bexar County court next year, Esparza said.

A former employer of Harrison, Ron Keller of San Antonio, expressed doubts that his friend died at his own hands.

"I knew him for many years, and Stuart was not a suicidal person," Keller said.

Keller said Harrison knew guns and that a deadly misfire was unlikely.

"He was definitely familiar with weapons - particularly

with handguns," he said.

Ware defends reliance on Blalack, by Mike Erickson Avalanche-Journal January 1, 1992

Convenience is the primary reason for filing most hot check cases in Justice of the Peace L.J. Blalack's court, Criminal District Attorney Travis Ware said Tuesday.

And Blalack said any overtime or staffing problems his office has experienced in the past year have not been caused by the hot check load but by his acquisition of cases previously handled by Justice of the Peace Bill Ross.

The issue came before county commissioners on Monday, when they considered a request by Blalack for staffing changes in his office.

Blalack, who has three full-time, permanent employees, also has had the services of a full-time temporary clerk whose employment has been renewed about every three months by commissioners.

And, in November, Blalack was given a part-time temporary employee to take the place of a permanent employee who had taken maternity leave.

Blalack said he wanted to get rid of the full-time temporary position and instead make the part-time position a permanent job.

Permanent employees receive benefits not available to temporary employees.

During discussion of Blalack's request, which was not acted on, commissioners asked if spreading the hot check load might help ease Blalack's office workload.

Precinct 4 commissioner Alton Brazell said Tuesday that spreading the workload would benefit the county.

"I've always thought that we could better utilize the help that we've got on board if we spread them out," Brazell said. "It does make it difficult to staff the JPs when the workloads are not spread even."

County Judge Don McBeath said the overall workload of

the justice of the peace courts has not changed much over the years, but the workloads of each court have varied.

"It has been a frustration of the commissioners court for many, many years," McBeath said.

Changing the distribution of hot check cases is one of the few ways to try to even workloads, McBeath said.

But, McBeath said, hot check cases are filed at the discretion of the criminal district attorney's office.

Ware said convenience and efficiency are the reasons for using Blalack's court for most hot check cases.

The district attorney's hot check office is located next to Blalack's offices, Ware noted.

"It's a question of convenience. It's a question of his experience handling hot check cases," Ware said.

The nature of hot check writers also leads to more cases being filed in Blalack's court than in other justice of the peace courts, Ware said. Because many hot check cases are from repeat offenders, the criminal district attorney's office tries to file them in the peace justice court where they have been filed in the past, he said.

Because Blalack assumed the hot check cases of Ross, who resigned in 1990, he has handled the most cases over the past several years, Ware said.

Ware said his office is beginning to file more cases in Precinct 7 Justice of the Peace Jim Hansen's office, which is located down the hall from the check office.

"We've been trying to spread them out gradually," Ware said. "So instead of taking old cases and dividing them up between the JPs, we're sending the new cases to Hansen's court.

Blalack said he has been able to cut down on the overtime his office has accumulated by streamlining office procedures.

For October and November, Blalack's office has accumulated $667 in overtime. His is the only justice of the peace court with overtime. In 1991, his court had $19,107 in overtime.

Hansen asks commission to reopen case on alleged judicial misconduct, by Grady Simmons Avalanche-Journal January 11, 1992

Justice of the Peace Jim Hansen is asking the state Commission on Judicial Conduct to reopen the case against fellow Justice of the Peace L.J. Blalack.

Hansen said Friday that he was dissatisfied with the commission's December action that cleared Blalack of judicial misconduct. A complaint by Hansen in June prompted an investigation of Blalack.

"I mailed the commission copies of information they didn't review in their investigation of complaints against Blalack," Hansen said.

Blalack said Friday that he would not respond to Hansen's request to the commission.

"He can do anything he wants to and more power to him," Blalack said. "But I wouldn't question the commission's judgment. They went over everything."

"I've got an election to win, and I can't be fooling around with this."

In a letter dated Dec. 20, the commission's executive director, Robert C. Flowers, wrote that the commission on Dec. 13 reviewed complaints from 12 people, including Hansen, a doctor and a lawyer.

According to Flowers' letter, the commission decided to dismiss these complaints because the alleged actions did not constitute judicial misconduct.

In June, Hansen filed his complaint after Blalack upbraided him in court on June 19 before a number of people over a point of judicial procedure.

Fines spark debate over legal limits: Misdemeanor offenders may be paying too much, by Grady Simmons Avalanche-Journal January 19, 1992

Some who have run afoul of the law in Lubbock County and have appeared before Justice of the Peace L.J. Blalack may

have shelled out thousands of dollars more in fines than the law requires.

Information obtained by The Avalanche-Journal indicates that Blalack apparently has assessed fines in excess of amounts outlined by the Texas Alcoholic Beverage Code and state traffic laws.

A computer-generated list of selected courthouse records showed that, between September 1991 and January 1992, Blalack had levied fines ranging from $253 to $503 for first-time offenses of minor in possession of alcohol, consumption of alcohol by a minor and misrepresentation of age by a minor.

Texas Alcoholic Beverage Commission District Supervisor Dan Cullers said last week that those fines were not in accordance with the Texas Alcoholic Beverage Code.

"On the dispositions we've been getting back, we've noticed some fines over $200, but we just assumed that those were second-offense fines," Cullers said.

The commission did not check the dispositions to determine whether the defendants had prior convictions for the offenses, Cullers said.

Asked what the maximum fine for a first offense minor in possession conviction is in his court, Blalack said: "It's $500, and there's no first offense."

The listing showed that Blalack levied traffic violation fines for the same period in amounts ranging from $230 to $500. The traffic offenses included fictitious vehicle registration, fictitious motor vehicle inspection certificate and presenting someone else's driver's license.

Highway Patrol Lt. Larry Story said last week that Texas traffic laws provide for maximum fines of $200 for those offenses.

Blalack on Wednesday refused to review the computer printout of courthouse records or to respond to suggestions that some of the fines he has assessed defendants in his court might exceed what the law allows.

"I won't respond to any allegations, and I won't look at any specific cases," Blalack said. "My fines are not too high or too low. I'm audited every month, and my fines are in line."

On Friday, Blalack again declined to explain how he determines fines for the offenses.

"I can't discuss how I come to fine amounts," Blalack said. "If this has to do with the Commission on Judicial Conduct, I can't discuss it. The commission hasn't called me on it yet, but I know (Justice of the Peace Jim) Hansen has filed against me."

Blalack said he does not know what Hansen's complaint is.

Justice of the Peace John Knowles of Jefferson County, who teaches at the Justice Court Training Center and was chairman of the center's education committee for the past two years, said the TABC code and traffic laws were not affected by September legislation that amended the Penal Code to raise the maximum fine for class C misdemeanors to $500.

"HB 407 does not affect the TABC code or the traffic fines," Knowles said. "The only class C misdemeanor that goes to $500 is something in the Penal Code. A first-offense minor in possession fine should be no more than $200.

"If a judge in your county is consistently over-fining, someone should contact the Commission on Judicial Conduct. When a judge goes out of his jurisdiction like that, whether on purpose or out of neglect, he is violating someone's civil rights. If a person sues for violation of civil rights, the county could wind up paying out the nose.

"It might put a stop to it if a defendant went to another court and filed a small claim to sue for refund of the over-fine. That would get the county and the judge's attention."

Knowles said that the Commission on Judicial Conduct could place a mentor - an experienced judge - with a judge who "is acting out of ignorance" for a period of time.

"But a judge like that needs to be attending school," Knowles said. 'If he doesn't, a county could be liable for his negligence."

Jeff Archer, attorney for the Texas Legislative Council in Austin, said Thursday that whether the amendment applies outside the Penal Code would have to be decided on a case-by-case basis.

"If a TABC penalty or traffic penalty says it's a class C misdemeanor, the Penal Code could apply," Archer said. "But if another statute or code sets a fine and doesn't say it's a class C misdemeanor, it's not affected by the Penal Code. Also, if a code or statute says it's a class C misdemeanor with a maximum fine of, say, $200, that maximum applies and the Penal Code doesn't govern it."

The Blalack Court: When Justice Is Too Fine, editorial, Avalanche-Journal, January 22, 1992

For a judge to be hard-nosed is one thing. To levy fines exceeding the amount the law allows, as Justice of the Peace L.J. Blalack may be doing, is another matter.

Hear the judge first: "I won't respond to any allegations, and I won't look at any specific cases. My fines are not too high or too low. I'm audited every month, and my fines are in line."

What Judge Blalack says is not in line with information turned up by the Avalanche-Journal. He seems to have levied fines beyond amounts outlined by the Texas Alcoholic Beverage Code and state traffic laws.

Courthouse records show that since September, Judge Blalack has fined people from $253 to $503 for first-time offenses involving a minor possessing alcohol or consuming it, and misrepresentation of age by a minor.

Dan Cullers, the Texas Alcoholic Beverage Commission district supervisor, says the fines do not conform with the Texas Alcoholic Beverage Code.

Records also show Judge Blalack levied traffic violation fines during that period ranging from $230 up to $500. These were for charges including fictitious vehicle registration, fictitious motor vehicle inspection and presentation of someone else's driver's license.

Highway Patrol Lt. Larry Story says Texas traffic laws provide for maximum fines of $200 for those offenses.

So what is going on in the Blalack court? Is he honestly mistaken about what the law allows? Or is he deliberately going

his own way without regard to the legal schedule of fines?

The state Commission on Judicial Conduct ought to take a look at this situation. If successfully sued for a violation of civil rights, Lubbock County might be liable for paying a big penalty because of Judge Blalack's actions.

As we said, hard-nosed justice is one thing. High-handed justice is not justice at all.

Auditor reviews Blalack's records: Judge to use data for possible refunds to overcharged defendants, by Grady Simmons, Avalanche-Journal, January 23, 1992.

The county auditor this week began combing through Justice of the Peace L.J. Blalack's records in the wake of a report published Sunday in The Avalanche-Journal that Blalack apparently as assessed thousands of dollars in excess fines.

In addition, Blalack has reduced fine amounts in at least 34 cases, according to courthouse records reviewed Wednesday.

"We're looking in excess of $200 for traffic violations and TABC (Texas Alcoholic Beverage Commission) code violations. When we find fines in excess of $200, we print out records and give them to the judge."

Blalack will use the records to determine whether to refund defendants who have been overcharged or to reduce fines that have not been paid in full, Allison said.

Blalack did not return telephone calls made Wednesday by The A-J to his office and home.

County Judge Don McBeath said Wednesday that he has considered the county's position in the situation.

"The county is the recipient of cash generated by the fines, but the fines are a result of court judgments," McBeath said. "It's not the county's position to refund over-fines or countermand court judgments. Any requests for refunds should be directed to the court, and if the court requests the county to refund any over-fines, we'll comply.

"I have counseled with the Criminal District Attorney (Travis Ware) on this, and I don't think the county has liability in

this case. Defendants are entitled to a refund for over-fines, but beyond that, they would have to show damages."

On Monday, Precinct 2 Justice of the Peace Arvin Stafford mailed a letter and list of Class C misdemeanors that carry a maximum fine of $500 to fellow justices of the peace.

"I hadn't heard anything about over-fines going on in the county before Sunday's story," Stafford said. "I hope this won't damage the image of justices of the peace, but when something like this happens, it gives us all a black eye. When people read things like this, they get on the offensive.

"But the first and most important thing is to get it corrected. We all have limitations we have to abide by."

A computer-generated list of courthouse records obtained by the A-J indicates that from September 1991 to January 1992, Blalack had levied fines ranging from $253 to $503 for first-time offenses of minor in possession of alcohol, consumption of alcohol by a minor and misrepresentation of age by a minor.

The listing showed that Blalack levied traffic violation fines for the same period in amounts ranging from $230 to $500. The traffic offenses included fictitious vehicle registration, fictitious motor vehicle inspection certificate and presenting someone else's driver's license.

Representatives from the Texas Alcoholic Beverage Commission and the Highway Patrol said last week that the maximum fine for those offenses should be no more than $200.

Justice of the Peace John Knowles of Jefferson County, who teaches at the Justice Court Training Center, said last week that a county could be liable for civil rights violations in the case of a judge who goes out of his jurisdiction in assessing fines.

"I have no reason to believe that Judge Blalack is not going to do the right thing," McBeath said. "He will check for inadvertent over-fines and make refunds where necessary."

Attorney helping students regain excessive fines, by Brian Cofer, The University Daily, February 11, 1992.

Texas Tech Attorney for Students Deniece Jones announced that her office will help students recover money from excessive fines charged by Justice of the Peace L.J. Blalack.

Blalack, justice of the peace for Precinct 1, allegedly has overcharged defendants in some class C misdemeanor cases. An audit was completed last week of all cases in which fines exceeded $200, and refund checks are being sent via certified mail to individuals whose fines have been deemed excessive.

Blalack said the problem was due to clerical errors, and not decisions made from the bench.

"There were no overcharges made, just overpayments made totalling $2,653.50, and they have been refunded.

However, Jones said a number of excessive fines have been given out in Blalack's court.

"People were being fined $500 for a traffic ticket. Anything more than $200 is outrageous," she said.

"Anybody who has been in his court for a class C misdemeanor should check to see if they are eligible for a refund."

Although all of the cases eligible for a refund are class C misdemeanors, some offenses in this category, such a public intoxication, disorderly conduct, and assault are subject to fines up to $500.

"The cases we are concerned with here are alcohol related offenses such as minor in possession and most traffic-related offenses," Jones said. "If they are not sure their offense qualifies, they need to call to find out."

Those with questions regarding their offense can call Blalack's office at 767-1077.

Individuals currently paying their fines on an installment plan, who have been found to be overcharged, will have their fines reduced, but will not receive a refund, unless they have paid more than $200.

Jones said that despite the fact that refund checks are being mailed, some checks might not reach the intended recipients.

"A lot of these people have moved since their cases were

disposed," she said. "People who think they are eligible who don't receive one soon need to call Blalack's office."

Jones said her office is open to all students with questions regarding the overcharges, and will assist in the recovery of the excessive fines. She can be contacted at 742-3289.

"My office is here to help," she said. "I've worked downtown and I know how hesitant students can be to go down there and take care of business. If they don't want to go to Blalack's office, at the very least, we can all go down there ourselves and see what is going on."

LISD opts to use all JPs for hearings, by Julie Hemby, Avalanche-Journal Sunday, March 8, 1992

Lubbock schools recently decided to use all three city justices of the peace for truancy hearings after questions surfaced into why the district always filed with only one.

"The cases now go to the justice of the peace who serves the precinct of the school or the child," said Ronnie Gooch, assistant superintendent for administration with the Lubbock Independent School District.

In a Feb. 28 memo, Gooch outlined the new procedure that compulsory attendance violations under the Texas Education Code could be filed in not only Precinct 1 but also precincts 6 and 7.

For years, the LISD had filed its complaints with Justice of the Peace L.J. Blalack because the school districts central office is located in Precinct 1, said LISD Attendance Officer Colene Fielding. Now, Justices of the Peace McKinley Shephard of Precinct 6 and Jim Hansen of Precinct 7 will hear truancy cases along with Blalack.

Fielding said last week that she had not yet filed an attendance complaint with Hansen or Shephard and that she planned to talk with them first.

LISD Trustee Linda DeLeon last month asked Superintendent Mike Moss to look into why the district filed only with Blalack. Parents in her district had expressed disapproval of

Blalack's fines and courtroom demeanor, Mrs. DeLeon said Thursday.

"Basically, I had gotten phone calls from people in my district who were concerned that they were being over-fined and that there was verbal abuse from Judge Blalack," Mrs. DeLeon said.

The Compulsory Attendance Law calls for fines of not less than $5 nor more than $25 for the first offense, not less than $10 nor more than $50 for the second offense and not less than $25 nor more than $100 for a subsequent offense.

"I can use my discretion to fine the minimum or maximum in what the law allows in the Texas Education Code," Blalack said. "There are a lot of things I do to where they don't have to pay the fine, too. If they can't pay the fine, they can use a work release where they'd work for a non-profit organization. They can fill out an indigency form. I can defer adjudication. We can set up payment schedule. I have held the fine until the end of the school semester. If the child does not miss any more school without a legal excuse, then I dismiss it at the end of the school year. And I've had parents spend a day in jail to pay off $67.50."

Sunny Ratliff, former juvenile chief in the district attorney's office, issued a memorandum last summer saying the district should file attendance cases in the justice of the peace precinct where the school is located. Moses obtained a copy of the memo after Mrs. DeLeon brought the truancy issue to his attention, Moses said.

The memo also outlined courtroom procedures during attendance hearings.

Ms. Fielding said she files complaints after first sending certified letters to parents asking that they talk with their child's principal. She also sets up conferences among parents, children and principals.

"It's not the (fine) money. It's putting a value on education," she said of truancy action. "Filing is a last resort. Judge Blalack had us list them (absences), then he would base his fine on how many days the child had an unexcused absence from school," Ms. Fielding said.

But judges across the state differ over whether to fine per absence or per filing by the school district.

"It would be burdensome for the court if the school district had to file on every absence," said a Wichita Falls Justice of the Peace Arthur B. Williams, who instructs a session on compulsory attendance for the Texas Justice Training center.

But another former trainer with the center in Austin, however, said he interprets the law more strictly. "The mistake a lot of judges make is that the attendance officer comes in and says, 'Judge, I file one complaint, but the child missed five days' So the judge turns around and fines - if this is the parent's third time in - up to $500," said Port Arthur Justice of the Peace John Knowles. "But the school district has to file five separate complaints."

Political advertisement paid for by Friends to re-elect Judge Blalack, 6500 Ave. S. Lubbock, TX 79412, Lubbock Avalanche-Journal, March 8, 1992.

Judge Blalack's opponents have offered nothing constructive in their bid for election; to the contrary, they have maligned, verbally assaulted and thrown mud in an effort to prevent Judge Blalack from being re-elected. **All candidates must adhere to the Judicial Canons which require the highest morals and ethics, both in campaigning and adjudication in the court;** special adherence is required in Judicial Canon #7 & 8 pertaining to political activity. Every opponent, Republican and Democrat opponents for Justice of the Peace, Precinct One have flagrantly violated these Canons.

WE DO NOT WANT THIS TYPE OF JUDGE
DISPENSING JUSTICE IN OUR COURT

Wedding solicitations going out on county postage, stationery, by Grady Simmons, Avalanche-Journal, August 8, 1992.

At least one Lubbock County Justice of the peace appears

to have been using county stationery, postage and clerical time to solicit wedding performance business for a fee.

A Lubbock couple who had applied for a marriage license has told the Avalanche-Journal they receive a letter from Justice of the Peace L.J. Blalack offering to perform their wedding.

The solicitation letter, which is a form letter on county letterhead, was mailed in a county letterhead envelope. The serial numbers on the metered postage imprint match the serial number on the county-owned postage meter.

A woman who answered the telephone at Blalack's home Friday night said the magistrate would not speak to The A-J, and later said he was not at home to discuss the matter. Blalack did not return the telephone call.

According to a copy of the form letter provided to The A-J, the magistrate's "wedding services are offered anywhere, day or night, seven days a week."

In a 1983 opinion, the state Attorney General said "a judge who advertises the performance of weddings...violates the Code of Judicial Conduct."

Lubbock County Judge Don McBeath said Friday that he knew nothing of Blalack's wedding business solicitations at county expense.

"I'm not aware of any arrangement with Judge Blalack where he would reimburse the county for clerical time, stationery or postage that he uses in soliciting wedding business," McBeath said. "I can almost unequivocally say there's been no arrangement with the county commissioners. This is news to me."

Any correspondence that goes out on county letterhead and postage, McBeath said, must be official business. McBeath said the legality and propriety of soliciting in any case should be taken up with the Commission on Judicial Conduct.

Four other Lubbock County justices of the peace - Jim Hansen, Arvin Stafford, Bob Blackburn and Grady Brooke - said Friday the do not solicit weddings.

They all said that doing so violates the Code of Judicial Conduct.

"This is against the Code of Judicial Conduct, and they

can put you out of office for doing it," Stafford said.

Brooke said soliciting weddings is "unethical and totally in error and wrong to do so."

Hansen equated soliciting weddings at county time and expense with making personal long-distance telephone calls on county time and with county telephones.

"If I were caught doing this, I'd be nailed to the wall," Hansen said.

Justice of the peace McKinley Shephard has an unlisted home phone number and was unavailable for comment. Justice of the peace Earl Yarbrough's home phone was unanswered Friday night.

Ware says Blalack faces probe, by Grady Simmons, Avalanche-Journal, August 22, 1992

Allegations that Justice of the Peace L.J. Blalack has used county stationery, postage and clerical time to solicit wedding performance business for a fee will be investigated, Lubbock County Criminal District County Travis Ware said Friday.

"I talked to (County Judge Don) McBeath today, and he explained the allegations to me," Ware said. "McBeath has been in touch with Blalack and his attorney Bill Wischkaemper, and we'll handle it thoroughly and completely.

"I'm not sure who will investigate the allegations. It could be the DA's office or the Sheriff's Department.

In late July, a Lubbock couple who had applied for a marriage license told The Avalanche-Journal that they had received a letter from Justice of the Peace L.J. Blalack offering to perform their wedding.

The solicitation letter, which is a form letter on county letterhead, was mailed in a county letterhead envelope. The serial numbers on the metered postage imprint match the serial number on the county-owned postage meter.

According to a copy of the form letter provided to The A-J, the magistrate's "wedding services are offered anywhere, day or night, seven days a week."

McBeath said in July that he knew nothing of Blalack's wedding business solicitations at county expense.

"I'm not aware of any arrangement with Judge Blalack where he would reimburse the county for clerical time, stationery or postage that he uses in soliciting wedding business," McBeath had said. "I can almost unequivocally say there's been no arrangement with the county commissioners. This is news to me."

Any correspondence that goes out on county letterhead and postage, McBeath said, must be official business.

McBeath's meetings with Blalack and Wischkaemper were intended to determine how much Blalack will repay the county, Ware said.

"The County doesn't have a figure yet, and I don't think they can produce one," Ware said. "The bottom line is that McBeath met with Wischkaemper, and the figure is going to be based on the number of letters alleged to have been sent. When that figure is determined, we'll go from there."

"The problem is that we haven't had a complaint, but once we're aware of alleged criminal misconduct, then it's our responsibility," Ware said.

Other Lubbock County justices of the peace said the did not solicit wedding business.

In an 1983 opinion, the state Attorney General said "a judge who advertises the performance of weddings...violates the Code of Judicial Conduct."

Blalack has referred questions about the matter to his attorney.

County Eyes 'Ads': A Judge and His Postage, editorial, Avalanche-Journal September 5, 1992

If a magistrate mails advertising about his services, at taxpayer expense, that is more than wrong - it is an abuse of office. Anyone caught doing so ought to answer for it. And he ought to reimburse the tax kitty.

Justice of the Peace L.J. Blalack appears to have been using county stationery, postage and clerical time to solicit the

wedding business of couples who want to get married.

In a 1983 opinion, the state attorney general said that "a judge who advertises the performance of weddings... violates the Code of Judicial Conduct."

The exact cost of the "advertising" of Judge Blalack's services is not known. It could involve several hundred dollars, we are told. No audit has been conducted, although one may yet be - and probably should be - done.

Any correspondence going out on county letterhead, with county postage, is supposed to be official business.

What does Judge Blalack have to say in his behalf? Nothing publicly. Conversations are going on behind the scenes to settle the dispute fairly between the judge and the county, and perhaps that is as it should be for now.

But lingering questions must be answered and the county reimbursed to its satisfaction for any improper expenses incurred in the solicitation of marriage business by the judge.

At the appropriate time, too, taxpayers ought to receive a full explanation of how the matter was resolved, if not precisely who - whether the judge or someone in his office - was at fault.

Something besides money is involved in this fuss over apparently misused postage and paper, small as those items may appear to be in relation to other county expenditures.

That something is public confidence in both the legal system and in the administration of county affairs. We urge county officials to move rapidly to maintain that confidence.

Blalack ends career as JP, citing stress, by Grady Simmons Avalanche-Journal, September 25, 1992

Justice of the Peace L.J. Blalack, citing turmoil in his office and a doctor's recommendation, turned in his resignation Thursday effective Sept. 30, just three months short of 16 years in office.

Blalack lost the Republican primary election to City Marshal Tom Head and would have been out of office after Dec. 31. Carlos Leal is Head's Democratic opponent.

In a hand-delivered letter to County Judge Don McBeath, Blalack's attorney, Bill Wischkaemper said, "the actions of a few who have persisted in their efforts to seek to impugn Judge Blalack's honor and integrity have created such turmoil for him that the performance of his duties and responsibilities has been extremely difficult. His cardiologist has recommended that he should resign immediately and this is the reason for his resignation."

Blalack, 69, first took office on Jan. 1, 1977. He came under intense criticism during the past year. A fellow judge and several people who had appeared before him filed complaints with the Texas Commission of Judicial Conduct. Two residents filed a petition to have the courts remove Blalack from office.

Along with his letter of resignation, Blalack sent a check for $503.39 to reimburse the county for postage and stationery he apparently used in soliciting wedding business from people getting married in Lubbock County, said McBeath.

"Wischkaemper called me several weeks ago," McBeath said. "He took the position that the judge never intended to do anything improper, but since questions were raised, he wanted to reimburse the county."

Blalack's wedding business was brought to light in an article published by the Avalanche-Journal on Aug. 8, which reported that Blalack used county stationery, postage and clerical time in that enterprise.

An investigation into Blalack was opened by the Commission on Judicial Conduct later that month. Robert C. Flowers, executive-director of the commission, could not be reached Thursday for comment on the probe.

Blalack's reimbursement check was based on 948 marriage licenses and the sending of letters at a cost of 53.1 cents each, McBeath said.

McBeath said Wischkaemper told him a clerk had typed the wedding solicitations during off-duty hours.

"It also was represented to me that there was a communications problem in Judge Blalack's office that caused the wedding solicitation letters to be sent out on county stationery,"

McBeath said.

County commissioners likely will leave the Precinct 1 justice court without a magistrate from Oct. 1 until after Nov. 3, according to McBeath.

"My understanding of the law is that the commissioners court has the responsibility to fill any open term," McBeath said. "I feel certain the commissioners will appoint the winner after the November election to fill the unexpired term."

In some parting comments, Blalack said mounting pressures in his courtroom hastened his departure.

"I stayed down here and stayed with all this pressure on me, I would continue to get worse and worse and worse. He (his doctor) hold me I wouldn't live much longer with that kind of pressure."

Blalack's resignation is not an agenda item for Monday's meeting but likely will be discussed, McBeath said.

Blalack expresses bitterness while surprising friends, foes, by Grady Simmons and Joe Gulick, Avalanche-Journal, September 25, 1992

Whether friend or foe, those who know Justice of the Peace L.J. Blalack expressed surprise Thursday at his resignation after almost 16 years.

Blalack, who was mired in controversy much of his last year on the bench, expressed bitterness.

Earlier in the year, Blalack came under fire for apparently overfining defendants. But Blalack said he was unaware at the time of the overcharges.

"The clerks handled all the bookkeeping," Blalack said. "I did not know that people were being overcharged."

Blalack, 69, said, "I'm bitter because I've tried to do what was required here for the community. I know that wounds old hat, but it's not. I've tried to prove it.

"I'm bitter because the efforts I've made all these years to build this court..I'm not bitter at any individual. I'm bitter because I don't have the opportunity to carry out programs I've set up.

There's a big opportunity for every JP to complement his jurisdiction with new ways of doing things.

"Now all of that has to be cut short because of the insinuations and distortions that have come out against me. They make it look like I'm corrupt and intolerant," Blalack said.

The judge said his leaving is a retirement not a resignation. "I'm retiring and retiring early," he said. "I've got my job until Dec. 31 if I want to. But I can't stand this. I won't stand this.

Blalack was defeated in the GOP primary by City Marshal Tom Head and was to have relinquished his post in January. Blalack's letter of resignation stated that one reason for his stepping down was that his cardiologist advised him to quit.

"I went to the cardiologist for a regular checkup. I've been getting some indications of something going on other than my normal physical feeling. He recommended I retire immediately because of the heat that was being put on me."

Still, news of his resignation caught colleagues by surprise.

"He just lacked three months. It looks like he could have served out that time, but if his doctor told him to quit, he has to quit," Justice of the Peace Earl Yarbrough said.

"I always thought a lot of Judge Blalack, and I hate to see all of this happen to him," Yarbrough said. "We went to JP schools together, and I always thought a lot of him."

Justice of the Peace Arvin Stafford also was caught off guard.

"I've known him since he became a JP," Stafford said. "I've been to meetings and JP schools with him, and Judge Blalack was very conscientious about a judge's job. But under the circumstances outlined by his attorney, it (resigning) seems like the appropriate thing to do."

Justice of the Peace McKinley Shephard, who is home recuperating from heart surgery, said, "We had begun to work together the past several months," Shephard said. "He'll definitely be missed."

Justice of the Peace Bob Blackburn said, "I hate to see him resign when he had only three months to go, but it's probably

for the best."

Justice of the Peace Grady Brooke, who is in Methodist Hospital after becoming ill at a Justice of the Peace training session in Midland last week, was unavailable for comment.

County Judge Don McBeath said Blalack was a good magistrate.

"Judge Blalack has a long history of loyal and dedicated service to the citizens of the county, and while it has been spiced at times with controversy, his service is greatly appreciated."

Blalack blames his detractors in part for his resignation.

"I've had so many lies and distortions told about me, and I haven't rebutted them," Blalack said. "I'm a judge - under a code of conduct.

"I didn't come out and chastise people who were trying to get me to squeal like a stuck pig with their attacks on me. I haven't done anything wrong. they've painted a sordid picture of me."

District Clerk Wayne LeCroy said, "I'm sorry to see Judge Blalack go. He has been a very good friend t me and a dedicated Lubbock County public servant for more than 15 years.

"Battered men, women, and children are losing a judge who has worked diligently t protect them."

But others who have had run-ins with Blalack were harsher in their responses to his resignation.

Justice of the Peace Jim Hansen, who had filed a complaint against Blalack with the Texas Commission on Judicial Conduct after Blalack upbraided him in public, said the resignation is the product of Blalack's deeds.

"We reap what we sow," Hansen said. "In response to his comment about people trying to impugn him, I would just say it's a result of his own actions.

"I wish our relations could have been more cordial, but they weren't because I had to."

Linda Vega, who filed suit against Blalack in January to have him removed from office for official misconduct, said, "I think it's for the best. I wish he had done it sooner because he hurt a lot of people, but I'm not giving up on my case. I'm not

letting him off the hook. It's not over."

Gerard Hennessey, who joined Vega in the petition to oust Blalack, said Blalack should have resigned long ago.

"I think it's as escape hatch to avoid a court trial," said Hennessey, who alleges that Blalack committed official misconduct by having him handcuffed after he requested public records. "I'm definitely going to pursue my case because no one should have been treated like I was. I've since learned that a lot of people have been abused by him."

Grand jury to hear testimony in Blalack case, Avalanche-Journal January 5, 1993

Former Justice of the Peace L.J. Blalack will again be the subject of scrutiny Friday when testimony about him will be presented to a Lubbock County grand jury.

The grand jury began considering Lubbock County cases on Monday. However, they will not address Blalack until Friday, after the presentation of the regular slate of cases to the panel, according to court officials.

Special prosecutor Terry McEachern said Monday that he expects to complete the testimony regarding Blalack on Friday. He filed an application on Monday for the issuance of 12 subpoenas.

"I plan on being all day Friday," he said.

McEachern, district attorney for Hale and Swisher counties, was appointed on Oct. 12 as a special prosecutor to look into allegations that Blalack misused county stationery, postage and clerical time to solicit weddings. Judges are allowed to charge and retain a fee for performing weddings.

McEachern presented testimony to the Lubbock County grand jury during the first week of December, but the panel adjourned without making any decisions regarding Blalack.

McEachern said on Dec. 4 that he anticipated grand jury action in January, adding that the investigation has expanded from the examination of the wedding solicitation business. He has declined to comment about how the investigation has

broadened.

"I can't elaborate further - not until the grand jury meets," he said.

According to the application for the subpoenas, McEachern has asked Lubbock County Sheriff D.L. "Sonny" Keesee to bring the records for all people who were jailed for truancy in 1992.

Also on the subpoena list are Gerard Hennessey and Linda Vega, who filed complaints against Blalack with the State Commission on Judicial Conduct in 1991.

Blalack booked at residence on four January indictments, by Joe Gulick, Avalanche-Journal, April 16, 1993

Former Justice of the Peace L.J. Blalack was booked Thursday afternoon in connection with four indictments returned by a January grand jury, but the booking did not take place at Lubbock County Jail.

Sheriff D.L. "Sonny" Keesee said Blalack, 70, was fingerprinted and photographed by two deputies early Thursday afternoon at Blalack's home. The jail paperwork also was completed at his home.

Keesee said he made the decision to serve the warrants at Blalack's house but that he wasn't trying to shield the ex-peace justice from the news media.

"This is something that is done in cases when we are concerned about the health of the person the warrant is issued for," Keesee said, adding that Blalack is recovering from quadruple bypass surgery.

The sheriff estimated that his deputies have booked about 10 to 15 defendants at their homes in the 12 years he has been in office.

Blalack was booked on an aggravated perjury charge, two official oppression charges and one official misconduct charge. The perjury charge is a third-degree felony, and the other charges are Class A misdemeanors.

County Court-at-law No. 2 Judge Tom Cannon set a

$5,000 personal recognizance bond for the felony offense and three $500 personal recognizance bonds for the misdemeanors.

Lubbock justices of peace rank low in pay comparison, by Guy H. Lawrence, Avalanche-Journal, April 25, 1993

Although Lubbock County justices of the peace are some of the most productive of their kind in the state, they also appear to be some of the lowest paid compared to their counterparts in other urban counties.

By population, Lubbock County, with 222,000 people, is 14th in size in Texas. But its justices of the peace collected $1.69 million in the past fiscal year in traffic and court fines - an amount greater than collections in heavier populated counties such as Tarrant, El Paso and Jefferson, according to an annual report by the Texas judicial system.

In terms of performance based on fines collected per capita, Lubbock County was outdone only by Galveston County, which ranked 15th in population and third in fine revenue with $3.3 million.

"Lubbock is not a small rural town any more," said Precinct 7 Justice of the Peace Jim Hansen. "More people deal with the justice of the peace system than any other court system within this county."

Justices of the peace deal with things ranging from barking dogs and unruly tenants to investigations into unattended deaths and capital murder arraignments.

"We are a clearing house for a lot of different types of problems," Hansen said.

Given the workload, a case could be made for higher justice of the peace salaries here, Hansen said. Justices of the peace, whose salaries are set by county commissioners, are probably the lowest paid department heads in the county, he said.

"I know a lot of county positions, not just justices of the peace, are underpaid," said Hansen, who makes $29,856 a year. "I knew what the salary was when I ran for office, and I am not complaining about my salary. Certainly when we turn out the

high case loads that we handle, I would hope that would impress the commissioners court enough to give all justices of the peace a raise."

Justices of the peace in Lubbock County are paid between $14,304 and $29, 856 a year. Three justices serve the City of Lubbock and four cover the outlying county from offices in Wolfforth, Slaton, Shallowater and Idalou.

A sampling of other counties shows:

*Salaries for 10 Galveston County justices start at $37,000 and rise to $42,700.

*Tarrant County has eight justices of the peace, whose salaries are in the $45,500 range.

*Travis County has five justices of the peace, whose salaries are in the $48,000 range. The county's population is 576,000 and $1.96 million in fines was collected last year.

*Denton County has six justices of the peace, whose salaries are in the $38,200 range. The county's population is 273,000, and $1.73 million in fines was collected last year.

*Jefferson County has five justices of the peace, whose salaries are between $22,500 and $47,500. The county's population is 239,000, and $1.24 million in fines was collected there last year.

*Collin County has five justices of the peace, whose salaries are in the $37,900 range. Each justice of the peace office has three clerks each. The county's population is 264,000, and $1.02 million in fines was collected there last year.

*Fort Bend County has five justices of the peace, whose salaries are between $38,000 and $43,800. The county's population is 225,000, and $1.04 million in fines were collected last year.

County Judge Don McBeath said Lubbock County has historically been conservative in the payment of its employees and elected officials.

"That is not discrimination against any particular official," McBeath said. "Most of the county employees in general are paid on the lower end of the spectrum, not only compared to other counties but to other governmental entities."

McBeath said he believes many of Lubbock County's justices of the peace are hard working.

"I think the fines are a very good indicator of the volume of work they are doing," McBeath said. "Unlike many other courts, there is a very direct correlation between the volume of work and the fines that are produced."

Still, he cautioned against comparing justice of the peace fine amounts from county to county.

In Lubbock County, for instance, most bad check cases are filed through justice of the peace offices. But in other counties, those cases may be filed in higher courts. Also, the number of traffic tickets filed is dependent more on aggressiveness by state troopers and the miles of highway in a county's unincorporated territory than on justices of the peace, McBeath added.

Precinct 2 Justice of the Peace Arvin Stafford said the work load for his Shallowater office has increased immensely. Stafford has been a justice for almost 23 years in Southeast Lubbock County.

"The amount of mandated forms, record keeping and bookkeeping has just snowballed in the last 10 years," Stafford said. "It has quadrupled the work load."

McBeath said part of the reason for low justice of the peace pay is the fiscally conservative nature of the commissioners court and the low cost of living in Lubbock.

"The only source of revenue that we can adjust to give raises is property taxes."

Court votes to hire private counsel for Blalack, clerk, by Guy H. Lawrence, Avalanche-Journal, May 25, 1993

The Lubbock County Commissioners Court voted Monday to hire private counsel to defend former Justice of the Peace L.J. Blalack and his former clerk, Melissa Martin, in a civil suit.

Lubbock attorney Dale Jones will represent Martin and attorney Jim Gorsuch will represent Blalack.

Sunny Ratliff, civil division chief in the Criminal District

Attorney's Office, told the commissioners court that the county is obligated to pay for the defense of Blalack and Martin. But because each also faces criminal charges, the district attorneys' office cannot ethically defend them in the civil suit, she said.

The civil lawsuit filed by Gerard Hennessey alleges that Blalack and Martin and other defendants were involved in racketeering, conspiracy and violations of his constitutional rights.

"In my opinion, additional counsel is necessary in this case for Judge Blalack and Melissa Martin because both of them have been indicted on matters concerning the specific case," Ratliff said. "I would have a problem, ethically, representing the two people who have already been indicted."

Also named as defendants in the civil case are County Judge Don McBeath; Lubbock attorney J. David Nelson; Texas Commission on Judicial conduct Executive Officer Robert L. Flowers; District Attorney John Neal, who was appointed as special prosecutor in a state suit filed by Hennessey against Blalack; Doug Greathouse, who was employed by Neal as an investigator; and former clerks Julie Martin, Rosemary Chivers, Diana Holloman, Lyn Duval and Patsy Summers.

Blalack was indicted by a grand jury in January on one charge of felony perjury, two charges of official oppression and one charge of official misconduct, all Class misdemeanors.

Melissa Martin was indicted in January for making a false sworn statement, a Class A misdemeanor...

----------**[Document 82 P580**----------

Excerpts from list of Lubbock Independent School District Truancy Cases heard by L. J. Blalack, 1988-1992.

To whom it may concern,

I certify the attached to be a true and accurate synopsis of the records pertaining to Truancy cases heard in J. P. Blalack's court dating from 1988 to 1992 as are presently held in the archives of Justice of the Peace Precinct 1 of Lubbock.

/s/ Mark P. Welbourn

Legend:

V.C.A. = Violation of Compulsory Attendance
DAY = day in which school is in session and attendance is required (the number of days indicates the number of days indicated on the shuck)
T = Truancy
(number preceding: number of complaints)
(number following: number of absent days alleged on complaint)
FTA = Failure to Appear
S/D COMM = Commitment to custody the same day as the hearing
LCYC = Commitment to Lubbock County Youth Center
LISD = Lubbock Independent School District
DISS = Dismissed
LAID OUT = Voluntary commitment to custody in lieu of paying fine
CAPIAS = Arrest order
MIP = Minor in possession of controlled substance
CC = Lubbock County Court
COMMISS = Order for commitment to custody issued
AGMT = Agreement with court for payment schedule
CDA=Lubbock County Criminal District Attorney
DEF = Deferred
X'S = Excess
COLENE = Colene Fielding, LISD Attendance Officer
PET = Petition

2

2

(See Pp. C-103-5).

Case No.	Surname	Christian	Address	Sch	Complaint	Fine	Comments
88117006	CORONADO	SYLVIA	5520 58TH APT 134	WES	V.C.A. 3 DAYS 2T	126.00	2 COMPLAINTS: 50.50,75.50
88117082	HELM	BECLAY	1810 3RD 126	EVA	V.C.A. 21 DAY T2	201.00	S/D COMM,50.50-100 FINE +72HR
88117126	HERNANDEZ	LORNA	3301 1ST	MAC	V.C.A. 1 DAY 2T	126.00	2ND FILING
88117129	SIERRA	MARIA			CONTEMPT	50.50	DISRUPTING CLASS
88117130	HELM	BECLAY		EVA	CONTEMPT	125.00	3 DAYS JAIL
88117194	HERNANDEZ	LORNA				125.50	72 HRS OF JAIL
88117656	PERRY	GINA	4923 39TH	STU	V.C.A. 2 DAYS T2	251.00	
88117680	TREVINO	MARGARITO			CONTEMPT OF C CC	100.00	
88117690	THOMAS	SHEILA	2128 E 30TH	SLA	V.C.A. 6 DAYS 3T	753.00	S/D COMM
88118648	PERRY	GINA	4923 39TH	STU	V.C.A. 3 DAYS T3	25.50	S/D COMM UNTIL PAID 9/23
88118649					V.C.A. 3 DAYS T3	251.50	S/D COMM
88118944	RIOS	JOE			V.C.A. 2 DAYS T2	126.00	S/D COMM
88118945	SIERRA	MARCELINA	913 E 36TH	SLA	V.C.A. 1 DAY T1	50.50	S/D COMM
88119105	HELM	BECLAY	1810 3RD		V.C.A. 2 DAYS T2	126.00	S/D COMM
88119122	GARZA	FRANK	108 N AVE V	EVA	V.C.A. 6 DAYS T6	628.00	ABEYANCE
88119123	FULCHER	DONNA	516 E 37TH	SLA	V.C.A. 2 DAYS T2	126.00	
88119199	SIERRA	MARCILINA	913 E 36TH	SLA	V.C.A. 2 DAYS T2	201.00	S/D COMM
88119249	FRAZIER	PAULETTE	2809 E 2ND #A	BOZ	V.C.A. 4 DAYS T4	377.00	WARRANT
88119302	RIOS	ELISEO	2123 30TH		V.C.A. 7 DAYS T7	753.50	H+D ,S/D COMM
88119353	PEREZ	ABRAHAM	3627 E 4TH	ALD	V.C.A. 3 DAYS T3	251.50	
89119445	RIOS	MARY	102 WACO	EVA	V.C.A. 2 DAYS T2	126.00	
89119445	RIOS	MARY LOU			VIOL. COMP. A T1	126.00	
89119446	AVALOS	ONESIMO	1913 40TH	SLA	V.C.A. 2 DAYS T2	126.00	
89119446	AVALOS	RAY RENE			VIOL. COMP. A T	126.00	
89119449	BERTZ	ABRAHAM			CONTEMPT		
89119481	BURCH	CASSANDRA			VIOL. COMP. A T	251.50	
89119481	BURCH	CASSANDRA	3606 B 23RD	WLS	V.C.A. 3 DAYS T3	251.00	
89119482	CERNA	MARY	1810 49TH		V.C.A. 2 DAYS T2	126.00	COMM
89119482	BITELA	MARY			VIOL. COMP. A T	126.00	COMM.2.15.89
89119485	MOORE	JANICE	2307 7TH	HUT	V.C.A. 3 DAYS T3	251.50	S/D COMM
89119486	GONZALES	JUANITA	526 54TH	ATK	V.C.A. 2 DAYS T2	126.00	PAID
89119486	COVARRUBI	NICKY			VIOL. COMP. A T	126.00	

89119722	CASTILLO	MARIA	1715 28TH	SLA	V.C.A.	2 DAYS	T2	126.00	S/D COMM
89119723	CERNA	MARY	1810 49TH	SLA	V.C.A.	2 DAYS	T2	126.00	S/D COMM
89119724	BERRY	WILLIE	2206 10TH #A		CONTEMPT				
89119725	JAMES	JACKIE	2719 65TH	HUT	V.C.A.	2 DAYS	T2	126.00	
89119726	CANTU	ESTELLA	2016 E 5TH	ALD	V.C.A.	2 DAYS	T2	126.00	S/D COMM
89119781	MARIS	LORENZO	2207 2ND PL	MAT	V.C.A.	3 DAYS	T3	257.00	
89119791	RIOS	JUANITA	1605 39TH	SLA	V.C.A.	2 DAYS	T2	251.00	S/D COMM
89119948	MARTINEZ	GLORIA	1523 23RD	SLA	V.C.A.	3 DAYS	T3	256.50	
89120000	GARZA	ADELINO	2909 BAYLOR		V.C.A.	3 DAYS	T3	251.50	S/D COMM WHEN APPEALED
89120002	HERRERA	MARY	1417 AUAVA		V.C.A.	4 DAYS	T4	352.00	S/D COMM
89120048					FTA				WARRANT NOT SERVED
89120051	WALKER	BELINDA	2118 E 30TH	SLA	V.C.A.	3 DAY	T3	251.00	S/D COMM
89120053	BARA	EMILY	2101 7TH	HUT	V.C.A.	2 DAYS	T2	126.00	CAPIAS ISSUED
89120149	CERNA	MARY	1810 49TH	SLA	V.C.A.	1 DAY	T1	100.50	S/D COMM
89120150	MACKEY	JHONNY	3501 E 15TH PL	NEW	V.C.A.	1 DAY	2T	75.50	PAID
89120151	POINTER	RICHARD	1916 62ND	BAY	V.C.A.	2 DAY	T2	126.00	
89120152	HERRERA	JUANITA	1101 40TH	NEW	V.C.A.	3 DAYS	T3	226.50	
89120311	JOLLY	MILLYE	6517 AVE T	BAY				1476.50	TRUANCY
89120312	JOLLY	MILLYE	6517 AVE T	BAY				1726.50	TRUANCY
89120313	JOLLY	MILLYE	6517 AVE T	BAY				1601.00	TRUANCY
89120314	BIBLE	PEGGY	2213 10TH		V.C.A.	8 DAYS	T8	850.00	S/D COMM
89119569	WILLIAMS	WYOMING	1201 17TH	SLA	V.C.A.	2 DAYS	T2	126.00	ISSUE COMM, 2 WEEKS LATER
89119570	GARZA	FRANK	108 N AVE U	EVA	V.C.A.	4 DAYS	3T	175.50	S/D COMM
89120321	JOHNSON	JUDITH	2401 WEBER DR	SLA				667.50	
89120322	JOHNSON	JUDITH	2401 WEBER DR	SLA	V.C.A.	25 DAY	T2	2987.00	
89120404	BERGESON	BRAD	312 AVE V	EVA	V.C.A.	4 DAYS	T4	352.00	
89120405	JOHNSON	JUDITH	2401 WEBER DR	SLA	V.C.A.	5 DAYS	2T	477.50	
89120406	JOHNSON	JUDITH	2401 WEBER DR	SLA	V.C.A.	5 DAYS	T5	477.50	
89120407	JOHNSON	JUDITH	2401 WEBER DR	WHT	V.C.A.	5 DAYS	T5	477.50	
89120408	ROBINSON	RENEE	304 37TH	SLA	V.C.A.	7 DAYS	T7	1506.00	
89120409	RODRIGUEZ	MARY	2907 COLGATE	WLS	V.C.A.	15 DAY	T1	1732.50	
89120410	COOK	WILLIE	2906 QUIRT	SLA	V.C.A.	4 DAYS	T4	352.00	
89120411	CASTILLO	MARIA	2103 38TH	ATK	V.C.A.	7 DAYS	T7	728.00	
89120412	PENA	TOMMIE	2202 37TH	SLA	V.C.A.	3 DAYS	T3	226.50	
89120413	JARAMILLO	LUCY	1302 26TH	SLA	V.C.A.	4 DAYS	T4	320.00	CAPIAS

89120414	CUTCHEON	ARLENE	2906	WEBER DR	SLA	V.C.A.	5 DAYS	T5	477.50	
89120415	GUAJARDO		3320	CORNNELL	EVA	V.C.A.	8 DAYS	T8	1130.00	
89120417	RODRIGUEZ	JUANITA	2411	BAYLOR	WLS	V.C.A.	9 DAYS	T9	979.50	
89120454	HERNANDEZ	DAVID	3301	1ST	LUB	V.C.A.	11 DAY	T1	1230.50	
89120463	JOHNSON	JUDITH	2401	WEBER DR	SLA	V.C.A.	5 DAYS	3T	477.50	
89120464	JOHNSON	JUDITH	2401	WEBER DR	SLA	V.C.A.	5 DAYS	3T	477.50	FTA LAID OUT 26TH APRIL
89120466	RODRIGUEZ	JUANITA	2411	BAYLOR	WLS	V.C.A.	6 DAYS	4T	603.00	
89120467	HODGES	LINDA	1926	22ND	SLA	V.C.A.	6 DAYS	T6	583.00	
89120468	CUELLAR	RICHARD	1303	23RD		V.C.A.	9 DAYS	T9	1105.00	WARRANT ISSUED
89120469	TORRES	JOE	5409	AVE D	HOD	V.C.A.	4 DAYS	T4	352.00	
89120470	LOPEZ	RUBY	1108	42ND	BEA				126.00	
89120471	FLORES	MARIA	2107	AVE L	BEA	V.C.A.	3 DAYS	T3	326.00	FEE FOR COUNSELLING 120
89120501	RODRIGUEZ	JOE	2609	37TH		V.C.A.	156 DA	T1	18549.50	
89120502	UBALLE	SANTOS	2901	LARTHOUTH	WHO	V.C.A.	16 DAY	T1	1858.00	
89120518	MARTINEZ	TERESITA	2308	3RD	MAT	V.C.A.	7 DAYS	T7	728.50	
89120519	PUERTE	JOSE	2823	FORDHAM	MAT	V.C.A.	8 DAYS	T8	854.00	
89120520	LEAL	RAUL	2510	63RD	MAC	V.C.A.	3 DAYS	T3	226.50	
89120521	LEAL	RAUL	2510	63RD	MAC	V.C.A.	3 DAYS	T3	226.50	PAID
89120522	DOUGLAS	RANDALL	1301	59TH	ATK	V.C.A.	3 DAYS	T3	226.50	
89120523	GUERRA	GLORIA	1526	E 1ST PL	ALD	V.C.A.	10 DAY	T1	979.50	
89120548	PAGE	MARTHA	322	AVE W	MAT	V.C.A.	5 DAYS	T5	427.50	
89120549	SIERRA	MARY	2122	9TH	HUT	V.C.A.	14 DAY	T1	1607.00	S/D COMM
89120565	LUCIO	LIONEL	1708	AVE N	BEA	V.C.A.	4 DAYS	T4	352.00	
89120566	COOK	MARY	3604	E 3RD	MAR	V.C.A.	6 DAYS	T6	553.00	
89120567	RODRIGUEZ	DOMINGA	2907	COLGATE	NEW	V.C.A.	1 DAY	3T	100.50	S/D COMM
89120570	CERNA	MARY	1810	49TH	SLA	V.C.A.	22 DAY	3T	2611.00	
89120571	CERNA	MARY	1810	49TH	SLA	V.C.A.	14 DAY	T1	1607.00	
89120572						V.C.A.	10 DAY	T1	1105.00	
89120628	GONZALES	ALYANDRO	3302	BATES	MAC	V.C.A.	6 DAYS	T6	603.00	
89120631	VESTER	KASHY	3409	E BAYLOR	NEW	V.C.A.	5 DAYS	T5	477.50	
89120632	TARANGO	CHRISTINA	1119	43RD	HRW	V.C.A.	4 DAYS	T4	352.00	
89120633	RODRIGUEZ	JUANITA	2411	BAYLOR	WLS	V.C.A.	8 DAYS	T8	854.00	S/D COMM
89120634	ENMIQUEZ	DOMINGA	2907	COLGATE	WLS	V.C.A.	8 DAYS	T8	1004.00	
89120635	CONTRERAS	MANUEL	2006	E 47TH		V.C.A.	10 DAY	T1	1105.00	
89120637	HALL	VIVIAN	2921	E AUBURN	NEW	V.C.A.	4 DAYS	2T	427.00	
89120651	GREENE	LINDA	1913	BAYLOR		V.C.A.	14 DAY	T1	1356.00	
89120663	FAULK	L	1119	43RD		V.C.A.	11 DAY	T1	1225.00	S/D COMM

----------[Document82P575]----------

MEDICAL REPORT ON STEPHANIE VEGA

January 8, 1993 IN 9:19 P.M. OUT 11:28 P.M.
Vega, Stephanie HRN: 25-34-73 Chart No. 534078
University Medical Center, Lubbock Texas
Emergency Center Record

Nurse report: 14 year old female admitted to emergency room complaining of pain to lower back. Reports being paddled for disciplinary reasons at school and struck to lower back with plastic paddle at approx. 1400 today. Reports tingling to site. Area not examined without difficulty. Seizure disorder. S free x 4 years. Pain to lower back, ambulating noted NV in her lower extremities.

Doctor report: S: Patient is a 14 year old female brought to ER for evaluation of low back pain and tingling over the lumbo sacral region. Patient was evaluated by officer Curry, who filed a report. No physical evidence of assault was noted and no pictures were obtained. Mother also notified CPS, no name was given to the mother. Mother states patient was taken out of class at 1400 and struck in the buttocks and lower back with a plastic paddle which was confirmed by Stephanie. Stephanie states how her lower back hurt and radiates up to her middle back. Patient attends Atkins Junior High and was told she was being punished for an infraction that occurred prior to Christmas break. Mother states patients father and the school had already resolved this altercation. CPS contacted states this is out of their jurisdiction.
O: alert, lying on her back in mild distress.
Back painful to touch over the sacral bones. No obvious disformities. See trauma evidence: bruises, evidence erythema, there are cane domes over the lower buttocks and mild erythema.
A: 1. low back pain
P: 1. motrin 400mg PO Q 4-6 hours for pain
2. Moist heat to back TIP x 3 days
3. No PE x 5 days

4. Return to ER if no improvement or worsens
5. EM and TT Pedis next week

See continuation sheet: traumagram
1. Officer Curry Report # 93-989 767-2817 (Police Dept)
2. CPS called by mother 741-7161

Disposition: discharged, ambulatory, with mother. Condition unchanged.
Photographs by Roger Wilkes
Lumbar sacral series

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION
Civil Action No. 5-93-CA-078-C

GERARD HENNESSEY
v.
L. J. BLALACK, ET AL.

Extracts from Statement of Facts before
the Hon. Sam R. Cummings, Judge, and a Jury

Appearances

For the Plaintiff:	Pro Se
For the Defendant:	Crenshaw, Dupree & Milam Norwest Bank Building Lubbock, Texas 79408 By: Ms. Charlotte Bingham Mr. Zant Woodul
Court Reporter:	Shawn McRoberts 1205 Texas Avenue, Rm. C-209 Lubbock, Texas 79401 (806) 744-1107

Lubbock County secretary Norma Kilgore:
Direct examination by Gerard Hennessey [P100-105].....3

Linda Ann Vega:
Direct examination by Hennessey [P107-127].....4
Cross examination by Charlotte Bingham [P127-138].....8

Lubbock County Constable Gary Newburn:
Direct examination by Mr Hennessey [P149-152].....9

Special Prosecutor, Hale County District Attorney Terry McEachern:
Direct examination by Mr Hennessey [P207-09].....14

Texas Ranger Jim Mull:
Direct examination by Mr Hennessey [P231-33].....16

Lubbock Independent School District Trustee Linda deLeon:
Direct examination by Mr Hennessey [P258-261].....18

Mark Welbourn, legal assistant to Mr Hennessey
Direct examinaton by Mr Hennessey[P265-268.....19

Lubbock County Justice of the Peace Jim Hansen
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Former Lubbock County Commissioner Randall Carpenter:
Direct examination by Mr Hennessey [P355-366].....26
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Plaintiff Gerard Hennessey
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Norma Kilgore

Testified on direct examination by Mr. Hennessey, as follows:

...

Q. Your name is Norma Kilgore.

A. Yes.

Q. Okay. And did you work for Judge Blalack?

A. Yes, I did.

Q. How long did you work there?

A. I worked from November of '79 until April- - I am sorry. November of '89 until April of '91...

Q. Okay. Did you ever see the complaints about Blalack from the judicial commission? Did they send the complaints to Blalack from the people that complained?

A. I never saw the actual complaints. I knew he had gotten them...Right before I left working there, I had faxed the answers to a complaint to *(State Senator, former Lubbock County District Attorney)* John Montford...

Q. Who told you to do this?

A. Judge Blalack...he told me that it would be taken care of so I faxed them to John Montford. By the time I got back to the office Mr. Montford had called Judge Blalack and told him that he would take care of them...I faxed several pages at one time...

A. I was never in his (*Blalack's*) court, but we could always hear because even when I was across the hall I could still hear him yelling at people.

Q. Did you hear people yelling back at him?

A. No.

Q. Did that happen?

A. No, everyone was afraid to say anything to him.

Q. Did you ever report of discuss Blalack's conduct with anybody?

A. I reported him to the judicial conduct commission...

Mr. Hennessey: Could we approach you, your honor, about Melissa Martin.

...The Witness: A. I told Melissa to tell Judge Blalack if he had anything to say to me he could say it to my face and not send somebody else down there to tell me that he was going to put me in jail.

Q. He was going to put you in jail?

A. Yes...

Q. Were you frightened of Judge Blalack?

A. I was not as frightened as I was angry because of the way we were treated.

=========Linda Ann Vega[P107-137]==========

Linda Ann Vega

Testified on direct examination by Mr Hennessey, as follows:

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...

A. January of 1990, we were called right after Christmas to appear before Judge Blalack... It was early in the morning that we went in. We were summoned to be there, my husband and myself and my little girl. And the courtroom was very crowded...I work for an attorney and worked for an attorney for eight years, and I am also mediator for South Plains Association of Governments. I mediate divorces, I am used to going into courtrooms and court settings. At that point when I went in there, we stood in the back and we were about the second or the third called. Right before us was a nurse. I remember the nurse going forward with her child and Blalack was screaming at her and telling her I don't care what you are, if you are a nurse. She kept trying to explain why her child had fever and missed school that day. And he kept yelling and screaming...the nurse started crying in tears and he fined her. And she pulled out her checkbook to pay and she left. And then I heard him say Linda Vega... it was a table...Colene Fielding *(Lubbock Independent School District's Attendance Officer)* made an opening statement to Judge Blalack, and Judge Blalack just started calling me names... I wasn't allowed to speak in my defense. When I tried to say something he told me shut up or you are going to go to jail...any time I would try

to say something he would just slam his hand...he was screaming. He was ranting and raving...he looked at my little girl and said, "You are nothing but a little tramp." And he told me I was going to go to jail. He fined us $350 that day and he told me to go and pay up front. And I didn't have the money. We had no attorney representation. We didn't know we were supposed to walk in there with so much money. We don't have it; we don't have a checking account, we didn't have the money. So they took me out of the courtroom and one of the bailiffs walked me out, and we went before the clerks that were there. And the clerk asked me for the money. And I said, "I don't have it."... I said, "Could I get on work release, please...And she said, "No, we don't have work release." So they were going to take me to jail. Then the bailiff ...said, "let me take you back in there and you can tell the judge you don't have the money." ...he took me back in and he sat me on the third row. And so it was my daughter, my husband, and myself sitting there. I couldn't control my crying, just crying quietly, keeping looking down not up at him. And he told the bailiff, "take stupid and put her in the back of the row. She is not even listening."...one after another, after another... screaming and the yelling continued. And we sat back there and waited and waited and waited. And hours were passing by, and we were still back there. And my husband went out and he came right back in a few minutes. "I called your job. You are okay."

And after hours had passed, we went without lunch, and my little girl said, "I have to go to the bathroom."... she almost wet her pants. ... He didn't even know who we were... he said, "I have a warrant for your husband's arrest...Because your husband got up and left." And I said, "But he came right back." He said, "It doesn't matter. I have a warrant for his arrest." Then he started talking about something, about inquests, something, screaming about something about an inquest. I don't know what he was talking about, just going on and on. And then he slammed his hand on the desk and he said, "Get out of here." ... We got out of there quick. I was afraid of going to jail.

...I feel like now that I know the pattern of what he was doing. He was terrorizing parents like myself, fining large amounts of money. If you didn't have it you were going to jail. And when you are put in that situation you will come up with the money somehow. And it was a pattern of the county making money off of these people...I went back up to the courthouse and I saw Mary Lou Elms, who is the district court administrator for the district judges, and I talked to her.

Q. Okay. When you were in the court did you ask for work release?

A. Yes, sir, I did.

Q. What were you told?

A. That they don't have any.

Q. Can you remember which clerk it was that told you this?

A. Yes.

Q. What clerk was that?

A. Melissa Martin. ...(next day) Colene Fielding came by the house.

Q. And what did she say to you?

A. I stayed home from work for the next two days and I got a knock on the door. Basically I was kind of like in a deep depression, like kind of an emotional rape type thing where someone has taken advantage of me and my family and held us hostage against our will, and all I did was just sleep. I didn't want to think about it. I didn't want to think about it. I didn't want to think I couldn't protect my daughter. I couldn't say anything. And when we got that knock on the door it was Colene Fielding ...I remember her telling me is that she was sorry. She didn't understand why Blalack called my daughter a little tramp. She didn't understand why he did that and she was sorry.

Q. Did you speak to anyone in the D.A.'S office about this situation that you had?

A. Yes, I talked to everybody that would listen to me, I would tell them, everybody in that courtroom. I would go to everybody in the courthouse, everybody who would listen to me

I would tell them this is what is happening. That is what is going on, and the people that I would talk to like Mary Lou Elms, the district court judge, would tell me "we know that is what is going on. Everybody is afraid of him." And I learned to fear him too, to be afraid basically for my life being at the courthouse and being there. I was very much afraid of him and what he could do to me.

Q. Did you contact anyone else in the county, any of the commissioners or Judge McBeath?

A. I spoke to Randall Carpenter. I spoke to Eliseo Solis. At one point I spoke to Don McBeath, and Don McBeath told me there was nothing he could do...I wrote to judges, J.P.s. I wrote to congressman Larry Combest. I wrote to the commission on judicial conduct on June 24th of '91 and I told them of what happened to me and my family...

Q. ...you wrote to the judicial conduct commission, and some seven, eight months later they wrote back

A. ...They said ...they investigated and there is nothing they could do.

Q. ...we put in ...an original petition for the immediate suspension and removal of a public official...that was available for any citizen with knowledge...anyone in the United States anywhere could file that kind of petition into the court...Commissioners could, judges could, all kinds of people could if they knew something was wrong to have an inquiry into this kind of thing...as a result of this petition we put in, there was a special judge appointed and a special prosecutor and a special investigator, Mr. Neal and Mr. Greathouse; is that correct?

A. ...We met them at the Paragon Hotel... that is when I talked to them about that...

A. They called us in one day and they told us that they had- -...

Q. Okay. We didn't get anywhere with this petiton. It came to a halt, the petition?

A. Yes.

Q. ...did you meet with Linda deLeon and Kathy, my wife, and Moses *(Lubbock Independent School District superintendent)*

about problems in Blalack's court?...
A. Yes, we did...And he said he was sorry and he knew Blalack was erratic, his behavior was erratic.
Q. Was the resolution at this meeting that L.I.S.D or somebody would look into the situation of being in Blalack's court out of jurisdiction and being overfined?
A. Yes...He said we would look into it and to find out where that money went that was taken away from the truancy from the parents, because I know they said they didn't have it...
Q. ... Have you found any response back from L.I.S.D. Or any Lubbock official of any kind?
A. The only response I have ever heard from Mike Moses is that day I testified in the grand jury against Blalack. The same time that I testified in the grand jury against Blalack my daughter was paddled...It was Stephanie...

Testified under Cross Examination by Ms Bingham as follows:

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...
Q. Okay. Can you tell me, why did it take you until June of 1991 before you filed a complaint with the judicial conduct commission?
A. Through that whole year from the date that it happened I was never quiet about it. I worked in the courthouse having to go in- - my job was to do the filing and everything...Through the whole year I talked to everybody. Everybody who would listen to me I would tell them what happened. I would tell everybody, just anybody who was there. I don't care who they were, J.P.s., I went to Judge Ross. I went to everybody that would listen to my story and told them that this is what is happening to parents. Look what is happening, look at the abuse that is going on, look at the fines. How can this happen? It was like if we had a Hitler among us and he was so powerful everybody was afraid to go against him. And I was afraid. I was afraid for my life. I knew that he had a .22 caliber gun in his possession. I knew that. ... A few weeks after

it happened. I talked to Judge Ross. I went to his office.
Q. And Judge Ross told you there wasn't anything he could do about it, didn't he?
A. Judge Ross told me that he had had a meeting with the L.I.S.D. Officials and the L.I.S.D. Officials said either do it Blalack's way or no way at all.
Q. Judge Ross told you he couldn't do anything about what had happened to you, didn't he?
A. Yes...
Q. You did not get fined as a result of the incident that occurred in Judge Blalack's room, did you?
A. I was fined by Judge Blalack $350. And I took it to another attorney Jesse Mendez who was the only one who would stand up against Blalack.
Q. You did not go to jail as a result of the incident that occurred in January of 1990, did you?
A. Only because I was brought back into the courtroom. No, ma'am.

=========Gary Newburn by GH[P149]=========

Gary Newburn

Testified on Direct Examination by Mr. Hennessey as follows:

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...
Q. What was your relationship with blalack in the county court system?
A. At one time I served all of his subpoenas, summons, civil papers, warrants. The judge would call me to go out and serve warrants and stuff for him.
Q. Okay. What happened in the last week of December '90 that caused a rift between you and Judge Blalack?...
A. That was when the judge was moving over from the old post office to the courthouse, and the judge come over one day and told me that he was going to have the commissioners appoint him a constable and that I probably knew the individual that he was going to have appointed, and that is was Julie and Melissa's brother Ferrel Martin...I told the judge that there

was a couple of problems there, that first of all Mr. Martin did not live in his precinct and that Mr. Martin was a convicted felon. The state kind of frowned upon convicted felons and about carrying guns and badges. And at that time the judge got real puffy and stormed off to his office. After that I never received any of the other papers from him again.

Q. Then you didn't serve any papers, that previously you had been serving those papers; is that correct?

A. Correct.

Q. Okay. Who served the papers then if you weren't serving those?

A. Sheriff's office served some of them but most of them went to a private process server...Kenny Herzog...these are case numbers right here and that that is fees associated with those case numbers, and these are the dates...at this time the papers were served by Herzog is that right?

A. Yes, sir.

Q. You don't know if they should be bid processed?

A. I would think that would be discussed with the county judge and county commissioners, anything that has gone through.

Q. Okay. At any time did you have a computer blackout of any of Blalack's cases?

A. Yes...in mid January I had an apartment house call me that night. They were having the sheriff's office serve some papers and it turned out to be Mr. Herzog. And they had a problem with that and they gave me the case number and I pulled it up and I started looking at different cases they were having them all served by Mr. Herzog. And we tracked them for a couple of weeks. I talked to a couple of the commissioners, and it seemed like about in late February all at once my computer and the computers in Judge Hansen's office were blacked out at the request of Mr. Blalack. He had made a request to the computer center to black our computers out and anything that was in regards to his cases.

Q. So as a result of that, you know Judge Hansen and you couldn't bring up Blalack's causes who was serving or whatever?

A. No, sir.
Q. Do you have any other problems with Blalack that you could bring to mind?
A. He kept making complaints to the sheriff's administrator, Steve Watts, and the captain of warrants, Mike Nichols, that I was serving warrants out of his court...on a couple of occasions he sent written orders to Mike Nichols to order him to order me to quit serving warrants...out of his court.
Q. When you were legally entitled to serve them?...
A. Yes, sir.
Q. Was Blalack happy about that?
A. No, sir. In early April I was delivered a summons by Arthur Hetler to show why I should not be held in contempt of court for violating the judge's order. I was delivered that summons about 10:00 o'clock for a 2:00 o'clock hearing.
Q. Who served the summons to you?
A. Arthur Hetler.
Q. What did you do then? What did you do about it?
A. It was pretty much a joke to me. I showed it around to everyone at the courthouse. About noon I had a visit from a reporter at one of the local TV stations and they come in and gave an interview asking if I was going to be arrested that afternoon...Someone wanted to make sure I was going to be on TV if I was going to arrested...I found out that there was going to be an assistant D.A.to come down and be present at that hearing so I went up and talked to him to see what stance the district attorney's office was going to take on this...David Duncan, assistant district attorney...told me that he was going to be there merely as a witness...at 2:00 0'clock I was there. I was summoned, I was there...We sat there until about 4:45 and the judge never came out.
Q. But he was in his office?
A. Yes, sir...I was told there was a mirror there. He knew we were there...At about 4:45 Norma Kilgore, the judge's clerk, came out and told me that the judge had decided not to hear the case that day, that he would let me know when he would hear the case.

Q. And did they ever let you know or did it just die away?
A. I was never summoned back.
Q. When were you put back on the computer?
A. When Judge Tom Head took office.
Q. So you were off it all that time?
A. Yes, sir.
Q. ...Leal who ran against Blalack for the job of J. P. of Precinct One...he was arrested and were you involved in this or did someone attempt to involve you in this?
A. I was asked to make the arrest...I didn't feel like the proper procedures had been followed to effect the arrest. I felt like it could have been done at an earlier time instead of Wednesday morning on TV.
Q. It was going to be a made-for-TV arrest; is that right?
A. Yes, sir.
Q. And who do you think arranged this? Did you figure this was an arranged thing?
A. Yes, sir.
Q. And who do you think arranged this?
A. L.J. Blalack.
Q. Okay. Do you think it was a political thing to get rid of an opponent or a vicious, abusive thing"
A. Yes, sir.
Q. How would you describe what Blalack was trying to do at this time? Do you know?
A. It was clearly to embarass the gentleman.
Q. Embarass Leal...So you were asked to arrest Mr. Leal; right, but you didn't, you refused to do it?
A. Correct.
Q. Which somebody did. Do you know who did?
A. One of the other constables...Dwight Lusk...It was that Wednesday morning of the truancy hearings at the courthouse.
Q. And you consider this could have been done privately and it was just a set up so this would be on TV to the benefit of L. J. Blalack?
A. Yes, sir.
Q. Okay. So was Leal arrested?

A. Yes, sir.
Q. Did he file a lawsuit as a result of this?
A. I believe he did.
Q. Who else was involved in this arrest?
A. I was asked to do it by Melvin Powers, head of the check office. The sheriff's office knew about it...I assume the D.A.'s office knew about it since Mr. Powers is an emplopyee of the District Attorney's office...It was a bad deal. I was approached on Tuesday afternoon to do it, and they had several opportunities to arrest Mr. Leal. They had his address. They had, Constable Lusk had delivered a truancy summons to him on Sunday. I felt like that the gentleman, there should be several attempts made to arrest him. Now, if Wednesday morning was the only time you could catch him then I would have done it. The TV exposure was not the thing that upset me. It was the absolutely no attempts to arrest him at his house. And the only attempt that was going to be made was going to be on TV, and I felt like that was completely wrong.
Q. Would you consider that an abuse of power on behalf of Blalack to go about it in this way?
A. I felt like there was probably an abuse of some other people besides Blalack's office on this.
Q. Okay. So you are saying it was with collusion of other departments in the county; is that right?
A. With knowlege of another department in the county... The hot check office, the District Attorney's hot check office...
Q. Now, your office is right across from what is now Judge Head's court; is that correct?
A. Across from his courtroom, yes, sir.
Q. How long have you been in that position, physically?
A. In that office? Since '85
Q ...did you hear abuse in his *(Blalack's)* courtroom or see abuse in his courtroom over the years you were there?
A. Yes, sir.
Q. What form did he take the abuse? How would you know it was abuse? What did you see going on that he was abusive?

A. Yelling, screaming, pounding on the table. On the day of the truancy hearings it was a steady stream of people going from the courtroom to the jail...a lot of them were visibly shaken...I was, on occasion, in the judge's courtroom arraigning prisoners before him when he would get loud and abusive with them or with other individuals in the courtroom.

========Terry McEachern by GH [P207]========

Terry McEachern

Testified on direct examination by Mr. Hennessey, as follows:

...

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Q. How would you describe L.J. Blalack in your personal opinion?

A. My personal opinion and what I have heard other people say I would say a very belligerent person and a egomaniac judge. That is my personal opinion.

Q. Okay. Did Judge Blalack cause his staff--Chivers, Duval, Holloman, and Julie Martin--to write false affidavits?

A. Yes.

Q. Were these used to impede a judicial commission; a judicial commission investigation?

A. Yes.

Q. In the period before the indictments, you would be classed as a State Investigator Special Prosecutor; is that correct?

A. I am the District Attorney of Hale and Swisher County. I represent the 64th and 242nd Judicial District Courts of the State of Texas. I was appointed by Judge Underwood as Special Prosecutor for an investigation by Judge Blalack. this was done at the request of Travis Ware, the District Attorney at that particular time, when Mr. Ware recused himself and I was appointed by Judge Underwood. At that point in time the contact of the Texas Rangers, which would be Jim Mull, we did an investigation. We actually met on at least two occasions, actually three occasions at which time various matters were

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discussed about Judge Blalack and some of the testimony that he had given, and after which four indictments were returned by the Grand Jury against Judge Blalack, as well as Melissa Martin.

Q. But initially your charge was to investigate the postage?

A. That is true.

Q. Okay. And it widened. Now you said that Chivers, Duval, and Holloman did write false statements and it was used to impede the Judicial Commission?

A. No doubt about that.

Q. Okay. Now, also there was a state investigation. Linda Vega and myself did a state suit which involved John Neal as a special prosecutor and they investigated our claims before you got on stream. Do you consider that these statements impeded their investigation?

A. Yes.

Q. So here we have, if I am correct, Blalack and his staff using these false statements to impede a judicial commission investigation and a state investigation?

A. Yes.

Q. Were these statements offered to you by Blalack or others to try to impede your investigation?

A. They were referred to by Judge Blalack in my presence.

Q. So here we have three investigations where Defendant

Blalack has attempted to impede State Investigations?

A. Yes.

Q. Thank you. Now, having said these people wrote these false statements and Blalack used them to impede State Investigation, why wouldn't you pursue a conspiracy charge against those of his staff and that did those statements and Blalack himself.

A. Well, you have to understand the Texas Judicial System with the Grand Jury. A Grand Jury can choose to pursue matters, they can choose to leave them alone. They have lots of options in making a particular deal. Also controlling in this particular matter is the appointment as Special Prosecutor.

When you are appointed as Special Prosecutor, you are appointed to just investigate one particular thing, and that is what I was assigned to. Those other peripheral matters you are talking about, I went to Judge Underwood and he said it was best at the particular time just to concentrate on what I had been originally assigned. And that was Judge Blalack and any offense that he may or may not have committed, because he hadn't gone to trial yet.

Q. So did Judge Underwood specifically say just stay with the case you have, don't look at conspiracy?

A. First of all, I didn't have a Grand Jury. My Grand Jury was completely through so I didn't have a Grand Jury to go back to... *(Mr McEachern was shortly thereafter removed from the case as special prosecutor and the Lubbock County District Attorney's office took over the prosecution of L. J. Blalack despite its earlier recusal)*

==========Jim Mull [P231]==========

Jim Mull

Testified on Direct Examination by Mr. Hennessey as Follows:

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...

Q. I am now going to show you another statement from Melissa Martin and this is S-15 and 16...is it one that Melissa Martin signed in your presence?

A. Yes, sir, it is.

Q. Does it refute the previous statement that she wrote for Judge Blalack

A. Yes, sir, it does.

Q. ...did Melissa Martin tell you that she had done lots of these statements in the past, this type of statement?

A. Yes, sir, she did.

Q. Did she say where those statements were?

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Q. Did Melissa Martin tell you that she had done lots of these statements in the past, this type of statement?

A. Yes, sir, she did.

Q. Did you advise her how to do it?
A. She told me that Judge Blalack when he left took them with him to his residence. They were no longer in the J.P.'S office and I told her she would have to contact Judge Blalack and ask if she could have the statements she gave him.
Q. Did she indicate how many of these statements there were by any expression that she made?
A. I don't recall a number that she gave. She said that any time anyone came into the Justice of the Peace Office and had problems with them that the Judge would ask them or order them to write a statement as to what occurred in the office.
Q. Did she say why the Judge asked this?
A. This was a defense in case the Judge was investigated by the Judicial Conduct Committee or anybody else that they would have statements on file as to their version of what happened during the incident.
Q. Did she indicate in any way that this had gone on for several years?
A. Yes, sir, I think she indicated this was a normal procedure in Judge Blalack's office while she was employed.
Q. Did you interview any of the other staff in Blalack's office?
A. Yes, sir, I did.
Q. Do you know them by name or shall I remind you?

A. I know most of them I think.
Q. Okay. So you took a statement from Julie Martin?
A. Yes, sir, I did...
Q. Did you get a similar statement from Julie Martin regarding what went on in Blalack's office?
A. Julie Martin was the same as Melissa Martin. There was two statements given an original statement, and then I took another statement from them.
Q. Okay. And in the statements that you got, did they both say that their first statements were lies?
A. Yes, sir, that is correct.
Q. Okay. Did they say that it was at the direction of the

Judge that they made those statements?
A. Yes, sir, they did.
Q. Now, did you get the same thing from Marie Chivers?
A. Yes, sir, I did.
Q. Did she say that she wrote a statement for Blalack and that he tore up the statement?
A. Yes, sir, she did.
Q. Did he then direct her to make another statement in the

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words that he wanted?
A. She said that she wrote out a statement and gave it to Julie Martin. And Judge Blalack looked at it, was not satisfied with it, and then dictated a statement to her that she wrote and signed.
Q. ...Is this the statement you took from Julie Martin, Melissa Martin's sister?
A. Yes, sir, it is.
Q. And does is show basically what we have been talking about to this point? Does it show that she- - Does she say in her first statement she lied, but she did it under the direction of the Judge?
A. Yes, sir. This statement that she gave me is recanting a statement that she gave on April the 9th, saying that the statement she gave on April the 9th was in fact not true and this statement she was giving me on this day was in fact true...

==========Linda deLeon [P258]==========

Linda deLeon

Testified under Direct Examination by Mr Hennessey, as follows:

...

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Q. Those commissioners you talked to, they were aware of the problems in Blalack's court?
A. Very much aware.
Q. Aware of abuse and overfining and out of jurisdictions?
A. They did specifically make those statements to me...

==========**Mark Welbourn [P267]**========

Mark Welborn

Testified under Direct Examination by Mr Hennessey as follows:

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A. I went into the basement *(of Lubbock County Courthouse)* ... going through the shucks *(in Blalack's court records)*

Q. What was the maximum fine for a first offense *(Violation of Compulsory Attendance §4.25 Texas Education Code)* at that time *(1988-92)*?...

A. ...there is an exhibit from the D.A.'s office that states a maximum fine as being $25 at that time plus the costs, which I guess would come out to be $37.50.

Q. ...what was the range of fines that you found about, usually, in the records?

A. Prior to 1990 there was one fine of $37.50. Most of

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the fines listed on the shucks were in the range of hundreds of dollars up to one that was even $18,000.

Q. $18,000?

A. Yes.

Q. Can you remember from your records there what kind of actions the Judge would take as regards counseling or Project Intercept?

A. As well as a fine there ... often would be a same-day committal of the parents. There was no evidence of a paupers hearing or anything. Project Intercept children were sent to Project Intercept. There was a Taekwando school they were sent to that was generally it.

Q. Where did the majority of defendants reside? Was it mostly outside of the jurisdiction?

A. Mostly outside Precinct One.

Q. Those on your list?

A. Those on my list probably I would say 30 or 40 percent were within the precinct and the rest would be outside of it.

Q. Was there any evidence in there of circumstances that may have cleared the parents of liability?

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A. Occasionally there was a letter saying they no longer lived with them or no longer in their control, which is a defence to the action, the violation of compulsory *(attendance)*.
Q. And was it a defense in these cases?
A. No, it wasn't taken as a defense.
Q. Okay. Did the defendants appear to be of any dominant ethnic background?
A. Going from the names on the shucks, most of the defendants were Hispanic. But I don't know why that occurred, but mostly they were Hispanics.
Q. Was each day of absence from school filed as a separate case in accordance with the instructions from the C.D.A.?
A. No, they weren't. It might be three, four, ten, twenty days lumped together and filed as one case.
Q. Have you had any legal training...?
A. Yes...I graduated with a law degree from Liverpool University.

==========Jim Hansen P317]==========

Jim Hansen

Testified under Direct Examination by Mr Hennessey, as follows:

...

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Q. Are you a J.P.?
A. Yes, I am.
Q. ...Have you ever reported Blalack's behavior to the D.A. or the Commissioners?
A. Yes.
Q. Could you tell us how that came about, how you came to report it and to who?
A. Well, I will try to make it short. An attorney came to my office, with an agreed court document from Judge Blalack's court and told me that Judge Blalack was out of the office and asked me to sign it and I signed it. I later found out that the attorney was terrified of Judge Blalack and had lied to me and Judge Blalack was in fact there. So I signed the order and Judge

Blalack found out, because I told the attorney to take a copy down to his secretary. And Judge Blalack had Sheriff's deputy come to my office and summon me to his courtroom. He was on the bench in his robe. There were several litigants in the courtroom, and he went into one of his tirades. He was slamming his bench and waving this paper saying, did you sign this and what not.

Anyway, I filed a complaint with the Judicial Conduct Commission. I also, the following day, approached Judge McBeath. I had a letter I had written, a typewritten letter, more or less requesting that he and the Commissioners

Court conduct a formal inquiry into Judge Blalack's activities. Don and I are friends, he looked it over at that time and we spoke. And he basically told me "Jim, we don't have any jurisdiction to jump into this kind of thing. I can't do this."

Later I began looking into some of Judge Blalack's fines, and I was the initial person to bring out the issue of the overfining. I would look on my computer, case by case by case one, two, three in a chronological order. And I started making printouts of cases I found I believed to be incidences of overfining. I showed a list of over 100 cases I compiled to County Commissioner Brazell in my office. We are also friends. We were talking about something else and I just said look at this. I did the same with County Commissioner Randall Carpenter and with Jan Blacklock who is from the District Attorney's office and is the the head of the misdemeanor division, and thus the primary liaison between J.P. Court and the D.A.'s office. We work very closely with Jan. And basically with Mr. Brazell, with two commissioners and with the District Attorney representing Ms. Blalock.

I was not so much demanding you do something about this as much as I was showing everybody I could. I said look what is going on here. We have got to do something about this. And basically got no response. And the Judicial Conduct Commission eventually dismissed my complaint on some

follow up inquiries. I said, how can you allow him to continue to fine people in excess of what the law allows. And you are telling me I don't have a legitimate complaint. I was informed by Bob Horning, the representative of the Judicial Conduct commission that a miscarriage of justice was done in my case, that it should not have been dismissed. I have since been informed by several individuals that my case should not have been dismissed by the commission. Mr. Horning also indicated to me he had never seen the over 100 computer printouts. And I said, well, I will make another one and send it again. So I sent it again and never heard anything from the Commission.

From the time I took office January 1 of 1991, Judge Blalack was right next door. I went to meet with him on some issues about us having to work together. We are Judges next door to each other and oftentimes, many times, he was very cordial and we had a pretty good natured relationship. But other times he would fly off the handle and he was a very irrational man at times. In my opinion, many people in the courthouse were afraid of him or avoided him because of his irrationality, the kind to throw up his your hands. He is going to yell at you, there is no communication and no rational conversation.

From my bench or rather from my office, not everyday but sometimes many days in a row, I could hear him

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from his bench which was out the door, down the hall some 30-35 yards in the back door of his courtroom up to his bench. I could hear him from my office screaming, beating on the bench. Truancy hearings were usually held each week. I oftentimes saw many dozens of people, in my own words, "Herded like cattle" into that courtroom. They would go in early in the morning they would not be allowed to leave until late at night. And throughout the day I could hear Judge Blalack hollering banging on the bench. And I could reiterate that I have also heard many rumors and other episodes and stories from attorneys and many members of the Defense Bar have since come to me and personally apologized saying they wished that they could have done something about it.

Q. This is EE-1 through 18. Are these the printouts that you referred to that you generated?
A. Yes.
Q. And these you sent to the Judicial Commission and you are showing the commissioners and so on and so forth as you just testified?
A. Yes, some of these I do recognize. Yes, these appear to be some examples of overfining that I did send to the

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Judicial Conduct Commission...

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Q. ...I think we have already entered into evidence the front-page story with Jim Hansen, A-1. So if this story appeared when you had your clash, head-on clash with Judge Blalack in his courtroom, did you receive any complaints? Did it generate a lot of people phoning you in your office?
A. The day that this front page story appeared in the Lubbock Avalanche Journal, I had, guestimating, over 100 telephone calls, personal contacts. And in subsequent days I received a great volume of mail of everything from way to go to here is my personal story of what happened to me. I was really shocked at the outpouring of people who wanted to come forward to tell me their story.
Q. Did this include lawyers?
A. Oh, yes. The courthouse officials, courthouse staff members, defense attorneys, private citizens.
Q. You said you could hear Judge Blalack screaming,

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shouting, et cetera, all the way to your office?
A. Yes.
Q. Would you say that anyone walking past any of the hallways around there would have to hear some of that? It was not just you that could hear that kind of abuse that goes on?
A. The hallway between the two offices, our offices were more or less enclose away from the main hallways of the courthouse. I suppose that would be possible. I have never conducted an experiment.

Q. But, say, in your secretary's office, could they hear?
A. Oh, absolutely.
Q. Which is further away again?
A. We would all discuss it among yourselves, that it was difficult to do our jobs and get things done with all of the noise and the hollering going on. My court bailiff, I would sometimes have to have close the door to my courtroom so I could conduct my own court business.
Q. And would you say that the people were in this court, especially in these truancy ones, when there was a lot of women and children in- -
A. Yes

...

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Q. When you found out, and I believe this was in December after you had done your complaints to the Judicial Commission and so on, and you found out it had been dismissed, were you angry that it was dismissed?
A. Absolutely. It is a miscarriage of justice.
Q. Okay. Did you then write to the commission again and ask them to open up again?
A. I have since written to each member of the Judicial conduct Commission individually, to the Governor's Office as recently as two weeks ago. I sent a letter to State Representative Robert Duncan demanding the resignation of Robert Flowers as the executive director of the Judicial Conduct Commission.
Q. You still feel very angry about this?
A. Very much so. I put my faith in the Commission and all I asked was a fair investigation. Whatever action they would have taken against Judge Blalack, whether t would be a private or public reprimand was their business. But to summarily dismiss my complaint as a fellow judge, along with yours, Ms. Vega's, a long, long list of individuals, to me sends a message to Judge Blalack--you can do whatever you want. You can throw whoever you want in jail. You can have any official from this courtroom called in to a public

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hearing on your bench in front of you and chewed out and

screamed at.

Q. That is tremendous power. That might be, with respect Your Honor, more powerful than a Federal Judge. I don't think a Federal Judge would have that power and that is shocking. In this time did you talk or are you aware or did you talk to the District Attorney's office or to the Commissioners? Did you tell them what you were doing or what had been going on and the complaints you had had and the abuses you had heard? Did you make it known to people around the courthouse?

A. Certainly. I had discussions with my co-workers at the courthouse. My concern was the violation of the Canons of Ethics. Canons of Ethics are rules that all judges are to abide by. And when you do not abide by those rules the Judicial Conduct Commission can come and take action against you. And the specific, I brought it with me, specific Cannon I cited in my complaing against Judge Blalack states, "A Judge shall be patient dignified and courteous to litigants juries, witnesses, lawyers and others with whom he the Judge deals in his official capacity, and should require similar conduct of lawyers and of staff, court officers and others subject to the Judge's direction and control." The Canons of Ethics and Rules which apply to Defense Attorneys also state that any of those attorneys who have knowledge of violations of the Canons of Ethics by Judges should report those to the Commission...

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Q. Okay. Are you aware that one of the responsibilities of a Judge is that if he knows of another Judge that is committing improprieties or violating rights of other people, it is that Judge's duty to report it to The Judicial Commission?

A. Yes, it is.

Q. Thank you. Now, did you have a problem following this set-to that you had with Judge Blalack whereby you and Gary Newman, who has already testified, your computer or screen of Blalack's cases was wiped off your screen?

A. Yes. Shortly after it became public that I was the source of presenting the information about the overfining. I expected someone to say thanks for catching this problem, but in the end

my access to Judge Blalack's computer records were cut off. I did do a follow up and ask some questions of who ordered it cut off. I found out it was Judge McBeath. I went down and Judge McBeath and he discussed it with me. And he told me he really had no choice in the matter, but to cut off

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my access because Judge Blalack had said he would no longer put records on the computers if I had access to them.

Q. So are we saying here that Judge Blalack was running the Commissioners?

A. I am just stating that my records were cut off, and I went to find out why and that is what I was told.

Q. Were they our for a good deal of time?

A. It has been awhile, but I believe they were off until Judge Blalack left office.

Q. You never got them back on in that time?

A. I could be wrong, but there was a good deal of time that passed and I believe they were. Yes, as a matter of fact after Judge Head took office I requested that the quote "Ban" be lifted and it was.

Q. Gary Newman said the same thing. Do you consider that action as retaliation for you reporting the very serious matters of the Judicial Commission and rocking the boat, if you like?

A. I can't say that it was retaliation. I can certainly see how an individual can construe it that way. But I am not going to say that Judge McBeath was retaliating against me. I don't think that was the case I think what he told me was true, that Judge Blalack told him, "You cut off Hansen's records from me," and he did.

A. Yes, sir, they did.

==========Randall Carpenter[P355]==========

Randall Carpenter

Testified under Direct Examination by Mr Hennessey, as follows:

...

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Q. Mr. Carpenter, did you ever tell Don McBeath that if you were a private citizen you would sue the County?...

A. ...We are talking about Judge Blalack. He told me the boy could come in the next morning and take care of the ticket...8.30 the next morning when he got to work...a deputy or constable waiting there picked him up, took him down to the jail, booked him in, fingerprinted him, mugged him, and he fined him $1,200. My wife said I don't have $1,200 to pay the fine...I go in and talk to Judge McBeath and told him that the judge was going to get the County find for a ton of money. If I wasn't a county employee I would file suit on him myself...

Q. Did Judge Blalack generate more funds than any other J.P.?

A. He did.

Q. Who would be the beneficiary of any funds that he generated?

A. The county, and a portion of it goes to the state. But Judge Blalack collected his fines. He didn't let them work them out in work release. It didn't make any difference who they were, they paid the fine or went to jail, very few he let off, but he generated more money than any of the J.P.s...We had frequent complaints on citizens that were abused in his court...When Eliseo Solis *(Commissioner for Precinct 3)* and I went to Austin January the 9th, 1991, ... an appointment with ...Mr. Flowers... he had given us three options...a civil suit, the district attorney could investigate through a special grand jury...which was out of the question because at that time the...John Young accident *(in which Darlene Hall had been hit and killed by Assistant D.A. John Young driving while under the influence--see extracts from Farmer v Sherrod)* had been settled and Judge Blalack had that closed hearing...and he withheld the homicide ruling on it, so we eliminated that. The third option was the *(County Commissioners)* court could ask the District Judge to appoint a special prosecutor and call for a special grand jury to investigate...

Testified under Cross examination by Ms Bingham, as follows:

A. The first time we went...we didn't accomplish nothing, so the

second time we went back he gave three options we could use...
Q. When you went to Robert Flowers it was beause you were concerned about Judge Blalack's behavior; is that right?
A. His behavior, the harassment of people in his court, and the excessive fines he was charging to minorities...and there was quite a variation in some of those fines.

Testified under Redirect Examination by Mr Hennessey, as follows:

Q. Do you know if McBeath got advice from someone outside of the Lubbock County system?
A. ...I know that he spoke with John Montford on numerous occasions...
Q. Is it true or false that everyone on the Commisioner's Court knew about the abuses of Blalack?
A. I think everyone on the court had received some kind of complaint from somebody at one time or another. And we were totally aware that something should be done...
Q. Were you aware that the auditor and Judge McBeath advised people that were overfined in Blalack's court to go back to Blalack's court and ask him for a refund?
A. I am not aware of that; no...
Q. Did you ever advise anyone how to get a refund back from a court from being overfined or whatever? What is the normal procedure?
A. I did not know anything about any refunds that they were going to be given back. I was told, and that would be hearsay so I will back that statement up. It was my understanding that in talking to Eliseo he had a list of these, and I hope that is not hearsay, that there was going to be a lot of money that was going to have to be returned to people that had overpaid fines which was going to cost the taxpayers a lot of money.
Q. Right.
A. And that was to the knowledge of that because I did not work on that like I did on the other two items that we were securing.

He was handling this particular one and I was taking care of the other two, more or less.

Q. Would you have advised someone who was overfined and were entitled to a refund to go to Blalack's court direct and ask for that refund?

A. I would not ask anyone or not advise anyone to go. I told my two sons if they ever had to go over to his court to go see my attorney direct and have him appeal it up to the other court because I didn't want them in his court for anything, period...

Q. Would it be dangerous in your opinion for someone to go to Blalack's court and ask for a refund?

A. I wouldn't.

==========Melissa Martin [P400]==========

Melissa Martin

Testified under direct examination by Mr Hennessey as follows:

...

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Q. ...they are all affidavits signed by you and notarized and the whole works; is that correct?

A: Except the first one *(Melissa Martin's original sworn statement of April 9, 1991)*. I really don't consider it an affidavit...

Q: So, in your first sworn statement that is notarized by Debra Chambers, will you look at that one for me, please.

A: Yes.

Q: Is this a true statement of what happened in judge Blalack's court when I was held in his court in handcuffs?

A: Most of it. I believe there are three wrong adjectives in this statement...You know, I just used the wrong adjectives. That was my own fault...

Q: ...we have five affidavits with all different stories in each affidavit from you. Tammy has stayed with this one right here. Did you notarize some of the statements of the other ladies in your office?

A: Yes.

Q: Did you know them to be untrue, those statements?

A: I didn't read their statements. I only notarized

them...have them swear to their signature, swear to the information and the contents.
Q: Hold up your hand and swear to it?
A: Yes.
Q: And did you always follow that procedure?
A: I don't remember...things in the statement were out of context, wrong adjectives were used.
Q: Okay. When you called for the deputy, what did you say to him?
A: I don't remember...

=======Gerard Hennessey by Woodul [P498]========

Gerard Hennessey

Testifed under Direct Examination by Mr Woodul, as follows:

...

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Q. ...You went or you wrote to them *(the Judicial Conduct Commission),* we know that Mr. Solis went, we know that Mr. Carpenter went?
A: Yes.
Q: Did you know that Mr. McBeath went? Have you checked to find out that?
A. Did he actually send a complaint to the Judicial Commission?
Q: No.
A: That is what we are talking about. That is what I did.
Q: I don't want to argue with you. Did you know that Judge McBeath went to Austin, Texas and talked to the Executive Director of the Judicial Commission?
A: I would have no way of knowing.
Q: Okay.
A: I have no way of knowing about Solis or Carpenter.
Q: Let's assume we can show later that he did. Did you check to see that before you brought this lawsuit to sue him?
A: Where would I check?
Q: I guess you could check with Mr. Flowers. Did you check anywhere?

A: Mr. Flowers hasn't given me any of the names. The only one that has got names is Judge Blalack. Mr. Flowers hasn't told me or anyone else other than the complaint.
Q: Did you know or did you check to see if Mr. Alton Brazell went to Austin, Texas, and talked to the Executive Director of the Texas Judicial Commission?
A: I have no way of knowing whether they did or not. How would I check? Could you tell me how I could check on this?
Q. Now, you talked about the process of the District Attorney's office. That has been done, has it not?
A. You mean with the wedding solicitations?
Q. Yes.
A. Oh, yeah, very late in the day.
Q. And the case against you or the situation involving you: that has been done; right? Has he been indicted?
A. No, that has been done, this was done after he had lost the election.

EXTRACTS FROM DISCOVERABLE MATERIAL DENIED TO PLAINTIFFS BY PROTECTION ORDERS OBTAINED BY OTHER MEANS

Sam Ogan to Texas Judicial Conduct Commission, August 29, 1991

August 29, 1991
Mr. Bob Flowers
State Commission on Judicial Conduct
P.O. Box 12265
Capitol Station
Austin, TX 78711

Re: Justice of the Peace Blalack

Dear Mr. Flowers:

I have been requested to send a statement to your office regarding an incident on June 19, 1991, between two local justices, Judge L.J. Blalack and Judge Jim Hansen. I am not filing this as a separate complaint, but rather am sending my observations of the incident.

I am a criminal defense attorney and was present on June 19, 1991, in Judge Blalack's court for the arraignment of a client. I was conferring with my client when Judge Blalack entered the courtroom. I inquired of him regarding the order in which he would call the cases. He stated to me, "Just a minute, Sam. I have someone I need to chew out first." I thought perhaps that he was irritated with another of the Defendants. Instead, Judge Hansen entered the courtroom and approached Judge Blalack's bench. As I recall, Judge Blalack told Judge Blalack told Judge Hansen not to be interfering with his cases or words to this effect. Judge Hansen was very respectful and inquired of Judge Blalack what the problem was.

At this point, Judge Blalack began yelling at Judge Hansen and banging his fist on the bench. Apparently, the problem was that Judge Hansen had signed a bond reduction order on a case that was in Judge Blalack's court. This is standard procedure in Lubbock County. All of the county and

district judges do this on a regular basis. Judge Blalack became increasingly upset and shouted for a couple of minutes. Judge Hansen did not argue with him. Rather, he simply waited until the tirade was over. At that point, Judge Hansen said it wouldn't happen again, turned, and left.

I should point out that Judge Blalack's office is probably 5 feet away from where this incident took place. If he had wanted to dress down a fellow judge, his private chambers were certainly convenient and available. Instead, this took place in open court with at least a half dozen spectators. When the incident was over, Judge Blalack called my case for arraignment and I left.

My understanding is that this report will remain confidential. I certainly do not want any client to suffer repercussions or recrimination based upon by actions in sending this report to your commission. If I can be of any further assistance, please let me know.

Sincerely,
/s/Sam Ogan

====Texas Judicial Conduct Commission to L. J. Blalack===
==========December 20, 1991==========

State Commission on Judicial Conduct
December 20, 1991

CONFIDENTIAL
Honorable Levelyn Blalack
Justice of the Peace, Precinct 1
800 Broadway, Room 106
Lubbock, Texas 79401

Dear Judge Blalack,

During its regularly scheduled meeting on December 13, 1991, the State Commission on Judicial Conduct reviewed several complaints which had been filed against you by the following

individuals: Denis McGuinness, Honorable Jim Hansen, Nancy Pinson, Linda Vega, Norma Kilgore, Dr. Stanley Kaster, Orville Wright, Lanita Pitchford, R. B. Adamson, Daniel Prcin, G. Hennessey, and one anonymous complaint. Upon review of all these matters, the Commission decided to dismiss these complaints because the alleged actions did not constitute judicial misconduct. At this time there are no complaints pending against you with the Commission.

We thank you for your time and cooperation. Although we realize it was burdensome for you to reply to the numerous allegations, please be assured that the information submitted in your reply was helpful to the Commission in resolving these complaints.

We wish you well in your continued judicial service.

Yours truly,
/s/Robert Flowers

====Lubbock District Attorney to Justices of the Peace====
==========October 14, 1991==========

OFFICE OF THE CRIMINAL DISTRICT ATTORNEY
LUBBOCK COUNTY, LUBBOCK TEXAS 79408-3536

DATE: October 14, 1991
TO: Lubbock County Justices of the Peace
Judge, Municipal Court
FROM: Sunny H. Ratliff /s/
Assistant Criminal District Attorney
Juvenile Chief
RE: Hearing held under Texas Education Code, Section 4.25 (frequently called "Truancy Hearings")

...(illegible)...under Section 4.25 of the Texas Education Code. The following is an outline of the (illegible) steps in filing and conducting a hearing under Seciton 4.25 of the Texas Education Code. If you have any questions concerning any juvenile issue, please call me at 767-1113.

1. School sends referral to proper office of the Justice of the Peace or Municipal Court to initiate case filing under Section 4.25 entitled "Thwarting Compulsory Attendance Law."

2. Each day which the school alleges that the child was not in attendantce and that the parent or responsible adult "intentionally, knowingly, and recklessly, or with criminal negligence fails to require the child to attend school as required by law" should be filed as a separate case. A separate case filing is necessary in order to fine the enhanced amounts.

3. Clerk of the Court sneds a letter to parents or serves them with Notice to Appear before the Court to enter a plea. The judge may require that the child appear as well; however failure of the child to appear should not result in any action taken against the child.

4. On the date which the parent enters his plea, the judge should admonish the parents of their constitutional rights and describe the charge against them.

5. If parents plead guilty or nolo contendere, then Judge may assess fine and court costs.

6. If parents plead not guilty, set ...(illegible).... If plead not guilty, then judge may require a $200 personal recognizance bond.

7. As per Ch. 4.25 the appropriate fines are as follows:

1st offense - not less then $5.00 nor more than $25.00
2nd offense - not less than $10.00 nor more than $50.00
Subsequent offense - not less than $25.00 nor more than $100.00
To fine the enhanced amount, there must be a prior conviction or convictions.

8. If a case is set for trial, an Assistant District Attorney will appear to represent the State upon reasonable notice. At this hearing, school officials appear as witnesses. if the child is a necessary witness, then he also would need to attend the contested hearing. Where the child has missed an excessive number of days, it is probably not necessary for the child to attend, as the number of days speak for themselves.

9. At trial, the judge must find beyond a reasonable doubt the following:

(1) Jurisdiction - Lubbock County

(2) Venue - appropriate venue is as follows:
(a) County court;
(b) Justice of the Peace of parents' precinct;
(c) Municipal Court where parent resides; or
(d) Justice of the Peace or Municipal Court where the school is located.

(3) That there exists a parental relationship

(4) That the child at issue is within the compulsory school attendance age.

(5) The child was not lawfully exempt or properly excused from school attendance

(6) That the attendance officer of the school has warned the person standing in parental relation in writing that attendance is immediately required.

(7) That the person standing in a parental relation has intentionally, knowingly, recklessly or with criminal negligence failed to require the child to attend school as required by law.

10. It is a defense to prosecution that the parent is unable to compel the child to attend school.

=Lubbock Independent School District Memo: Truancy Cases=
==========February 28, 1992==========

LUBBOCK INDEPENDENT SCHOOL DISTRICT
Lubbock, Texas

TO: Dr. Mike Moses
FROM: Ronald Gooch
DATE: February 28, 1992
SUBJECT: Attendant Cases

You had asked why we use Judge Blalack exclusively as our hearing officer for attendance cases, and I contacted Colene Fielding for the history of this procedure. When McKinley Shephard and Bill Ross took office, Bill Parker, the director of Student Services, along with the visiting teachers and attendance officer, met with the three JP's to discuss student attendance. At

that particular time Judge Blalack seemed to be the only one interested in hearing the cases. Judge Shepherd said that he would write letters to parents, and Judge Ross indicated some negative feelings toward the entire process. Since that time we have used Judge Blalack's court as the one to hear the attendance cases.

That procedure has changed now, however, based upon an interpretation of a memo from Sunny Ratliff, an assistant criminal district attorney in the Lubbock district attorney's office. A copy of her memo is attached for your information. It appears that Judge Blalack now agrees with this memo and has advised Colene that it will be necessary for the JP who serves the area of the school or residence of the parent to hear the attendance case. This would mean that Judge Hansen would hear the cases from the west Lubbock schools, Judge Shephard would hear those from the north and east schools, and Judge Blalack would continue to hear those from the central area.

During one of the recent attendance hearings in which our attorney, Ronnie Agnew, accompanied Mrs. Fielding, Mr. Agnew expressed the idea that all of the attendance cases should be heard in Precinct One, Judge Blalack's precinct, because it serves the location of the central administration. Judge Blalack disagreed and said that if we pursue that opinion, we should do so with an attorney general's opinion.

Starting with hearings today, February 28, Mrs. Fielding will have cases before both Judge Hansen and Judge Shephard. With this change in filing responsibilities, I think it will be important for us to continue to monitor the work load of Mrs. Fielding. It appears that trying to get cases filed with three J.P.'s is going to be much more time consuming than dealing with one. Michael Payton and I will monitor this area and keep you posted of the advantages and disadvantages that we see under this system.

Also, you had asked about reporting responsibilities to the board regarding attendance accounting. In a review of the policy manual this morning, I found that FDC(L) does require the superintendent or his designee to report annually to the board concerning the operation and efficiencies of the district's student

attendance system, and recommendations for improvement may be presented. I have talked with Mr. Payton about the requirements of this policy, and we will be collecting the data through this year and preparing to submit it to you for transmittal to the board in the second meeting in June, if that is the appropriate time. We think we should wait until school has ended when we have calculated attendance for the entire year to finalize this report to you.

==========U.S.5:92-CV019-C==========
========Carlos A. Leal Sr. v L. J. Blalack========
(excerpts from the record)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

CARLOS A. LEAL, SR.	)(	
	)(	
v.	)(	
	)(	
L. J. BLALACK,	)(	Case No.
et al., Defendants	)(	5-93CV078-C

Motion (filed August 3, 1992)

Plaintiff Carlos A. Leal, Sr.'s, Unopposed "Motion For Leave of Court To Replead" (and/or to Amend Original Petition)

To The Honorable Judge Of The Court:

The Plaintiff, Carlos A. Leal, Sr., files his "Motion For Leave To Replead" and/or to amend his original compliant petition filed 1-21-92, and would respectfully show the Court as follows:

The Plaintiff requests permission to "Replead" his original

compliant petition; as he needs to dismiss defendant(s) from the civil action, and enjoin one additional-defendant party to the action; while perfecting the plea to include his son Carlos A. Leal, Jr., as a plaintiff-party to the action.

The attorney for defendant Colene T. Fielding, Ms. Lisa Brown, is not opposed to the "Motion for Leave of Court to Replead," but she does "as a matter of record" oppose enjoining the Lubbock Independent School District as a defendant to this action.

The Plaintiff, however, would show the court that the Lubbock Independent School district is a needed and indispensable party to this civil action under the doctrine of respondent superior and governmental liabilities.

The Plaintiff needs to replead as he has agreed to dismiss (without prejudice) as against lead-Defendant L.J. Blalack, Defendant Grady Brooke, Defendant Dwight Lusk, and for immediate intents and purposes, as against the County of Lubbock.

/s/ SAM R. CUMMINGS
United States District Judge

----------**Cummings to Sanders: August 6, 1992**----------

The Honorable Barefoot Sanders
Chief Judge
United States District Court
Room 15D28A, U. S. Courthouse
1100 Commerce Street
Dallas, TX 75242
Re: No. 5:92-CV-019-C
Leal, et. al. v. Blalack, et. al

Dear Judge Sanders:

I respectfully request to be allowed to recuse myself in the captioned case.

Very truly yours,

/s/ SAM R. CUMMINGS
United States District Judge

FILED IN THE U.S. DISTRICT COURT, NORTHERN DISTRICT OF TEXAS, NANCY DOHERTY, CLERK, ON Aug. 6, 1992

=======Quintero v L. J. Blalack: May 14, 1986=======

Precept To Serve-General
THE STATE OF TEXAS
Issac and Belinda Quintero
vs
L.J. Blalack, Ind. & as J.P.

May 14, 1986

In the County Court at Law
No. 2 of
Lubbock County, Texas

To any Sheriff or Any Constable within the State of Texas--Greetings:

YOU ARE HEREBY COMMANDED that you serve L.J. Blalack with accompanying certified copy of Temporary Restraining Order and Show Cause Order whereas IT IS ORDERED, ADJUDGED, AND DECREED by the Court that the Clerk of this Court issue this temporary restraining order upon the Plaintiff's filing with the Clerk of this Court a bond in the amount of $300.00.

Upon the filing of said bond then the following orders should be served upon the Defendant BLALACK, to wit:

IT IS ORDERED, ADJUDGED, AND DECREED by the Court that the Defendant BLALACK is specifically ordered to do the following at once:

1. Not issue a writ of restitution in Cause No. 86-CF600853JP1-1 which would issue by Monday, May 12, 1986.
2. Set aside his money judgment entered in Cause No. 86-CF600853JP1-1.
3. Accept Plaintiffs' jury demand and jury fee and place Cause No. 86-CF600853JP1-1 on the jury docket.
4. Accept all timely jury demands and jury fees made

by all civil litigants that appear in Justice of the Peace Court, Precinct 1, Place 1, Lubbock County, Texas.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that a show cause hearing shall be held to determine whether or not this temporary restraining order should be maintained as a temporary injunction in the County Court at Law No. 2 of Lubbock County, Texas, on the 19th day of May, 1986, at 9:00 o'clock, a.m.

SIGNED and ENTERED by the Court on the 9th day of May, 1986, at 11:12 o'clock, a.m.

/s/JUDGE PRESIDING M.K. Hancock

======In re R. B. Adamson: April 9-May 14, 1991=====

JMS5 JUSTICE COURT CASE EVENTS
UPD:04/11/91D81
TASK: INQ
REF#:177557
CASE: 91 126430 SEQ#: 001 THREAT SER. BODILY HARM
COURT:JP11 FINAL

STATUS: BOND 05/14/91
PLAINTIFF: STATE OF TEXAS
DEFENDANT: ADAMSON, R B JCR
PID:

---------- EVENT:
FILE F FILING OF CASE AMOUNT: .00
DATE: 04/11/91
OFFENSE: 131663
PARTY: 1 ADAMSON, R B

CODE	DATE	TYPE	SEQ	EVENT COMMENT
001 FILED CASE FILE	04/11/91	F		
002 WARRANT ORG WRNT	04/11/91	W		
003 ARREST DATE ARST	04/23/91	DW		
004 BOND	05/14/91	B	$.00	
005	05/14/91			

005 DISM OTHER DOTH 11/07/91 JD per judge 11-7-91

CAUSE NO. 91-126430JP1-1

THE STATE OF TEXAS
LUBBOCK COUNTY

Threat to Do Serious Bodily Harm Complaint

I Melissa Martin, do solemnly swear that I have good reason to believe that R.B. Adamson is about to commit an offense against my person in that on or about the 9 day of April, 1991 he/she, that said R.B. Adamson did threaten to do serious bodily harm to this affiant, and I am in actual danger and in actual fear that the said R.B. Adamson will carry out and execute such threat unless restrained from so doing with a peace bond, against the peace and dignity of the State. /s/Melissa Martin, AFFIANT.

Sworn to and Subscribed Before Me by the said Melissa Martin on this the 9th day of April, 1991. Notary Public, in and for the County of Lubbock. My commission expires on the 10 day of October, 1993. /s/L.J. Blalack, Justice of the Peace, Precinct One, Lubbock County, Texas.

----------Judicial Conduct Commission to Adamson----------
December 20, 1991

State Commission on Judicial Conduct
December 20, 1991
Mr. R. B. Adamson
Box 203
New Deal, Texas 79350
Dear Adamson:

During its regularly scheduled meeting on December 13, 1991, the Commission on Judicial Conduct considered your complaint against a Texas judge. At that time the Commission determined that the actions of the judge did not rise to the level of judicial misconduct and therefore voted to dismiss your

complaint.

We thank you for your interest in the Texas judiciary.

Yours truly,
/s/Robert Flowers

==========

=Disbursement of 1991 Lubbock County "hot check" Bonuses=

Name	April	May	June	Total
Baker, Rebecca	350.00	300.00		650.00
Barbee, Rhonda	100.00	100.00		200.00
Bingham, Charlotte	700.00	300.00		1,000.00
Blacklock, Jan	200.00	300.00		500.00
Blackmon, W.E.	150.00	150.00		300.00
Brooks, Chrystal	150.00			150.00
Buck, Teresia	450.00	300.00		750.00
Burelsmith, Larry	150.00	150.00		300.00
Chambers, Debra	250.00	100.00	300.00	650.00
Creager, Jeffery	200.00	100.00	200.00	500.00
Davis, Drue	150.00			150.00
Duncan, David	150.00			150.00
Faison, Sue	100.00		100.00	200.00
Hall, Jody	200.00		200.00	400.00
Haney, Dewayne	200.00	200.00	350.00	750.00
Hawk, Kenneth	150.00		200.00	350.00
Hemmeline, Beni	800.00		300.00	1,100.00
Hettler, Mary			50.00	50.00
Holmes, Steve	950.00	250.00	200.00	1,400.00
Jimenez, Connie	100.00		100.00	200.00
Joplin, Julia			100.00	100.00
Jordan, Luke	200.00		300.00	500.00
Kerr, Sonja	100.00		100.00	200.00
Kirkpatrick, Mark	300.00	150.00	350.00	800.00
Loper, Tom	150.00		150.00	300.00
McBeath, Don	1,100.00	100.00	400.00	1,600.00
McIntire, Robert	100.00		150.00	250.00

McLaurin, Ron	450.00			300.00	750.00
Neal, O.K.	150.00			150.00	300.00
Northrup, Tanya	250.00				250.00
Peircy, Jane	200.00			200.00	400.00
Pope, Elaine	350.00		200.00	200.00	750.00
Powers, Melvin	700.00		250.00	450.00	1,400.00
Raff, Betsy				100.00	100.00
Ratliff, Sunny	150.00			150.00	300.00
Rosas, Marta	1,800.00		550.00	750.00	3,100.00
Russell, Dora	250.00		100.00	300.00	650.00
Saenz, Joyce				150.00	150.00
Shaver, Cheryl				100.00	100.00
Skirlock, W.R.	150.00			200.00	350.00
Smith, Loy				250.00	250.00
Torres, Cathy				50.00	50.00
Troutt, Yolinda				100.00	100.00
Tyson, Sherry	400.00		250.00	200.00	850.00
Vaughn, Cheryl (Panzone)		150.00			150.00
Wadsworth, Venita		100.00		150.00	250.00
Wardwell, Sally		100.00		150.00	250.00
Wasley, Russell	300.00			300.00	600.00
West, Michael				300.00	300.00
Willey, Marybeth	100.00			150.00	250.00
Williams, Denise	250.00			300.00	550.00
Williams, Rebecca				200.00	200.00
Yokom, Mark	150.00			200.00	350.00
Young, John	500.00				500.00
	13,650.00	2,2500.00	10,850.00		26,750.00

Name	Jul	Total
Baker, Rebecca		0.00
Barbee, Rhonda		0.00
Binhgam, Charlotte		0.00
Blacklock, Jan		0.00
Blackmon, W.E.		0.00

Brooks, Chrystal			0.00
Buck, Teresia			0.00
Burelsmith, Larry			0.00
Chambers, Debra			0.00
Creager, Jeffery			0.00
Davis, Drue			0.00
Duncan, David			0.00
Faison, Sue			0.00
Hall, Jody			0.00
Haney, Dewayne		200.00	200.00
Hawk, Kenneth			0.00
Hammeline, Beni			0.00
Hettler, Mary			0.00
Holmes, Steve			0.00
Jimenez, Connie			0.00
Joplin, Julia			0.00
Jordan, Luke			0.00
Kerr, Sonja			0.00
Kirkpatrick, Mark		200.00	200.00
Loper, Tom			0.00
McBeath, Don		100.00	100.00
McIntire, Robert			0.00
McLaurin, Ron			0.00
Neal, O.K.			0.00
Northrup, Tanya			0.00
Peircy, Jane			0.00
Pope, Elaine			0.00
Powers, Melvin		250.00	250.00
Raff, Betsy			0.00
Ratliff, Sunny			0.00
Rosas, Marta			0.00
Russell, Dora	100.00		100.00
Saenz, Joyce			0.00
Shaver, Cheryl			0.00
Skirlock, W. R.			0.00
Smith, Loy			0.00
Torres, Cathy			0.00

Troutt, Yolinda				0.00
Tyson, Sherry				0.00
Vaughn, Cheryl (Panzone)				0.00
Wadsworth, Venita				0.00
Wardwell, Sally				0.00
Wasley, Russell				0.00
West, Michael				0.00
Willey, Marybeth				0.00
Williams, Denise				0.00
Williams, Rebecca				0.00
Yokom, Mark				0.00
Young, John				0.00
850.00	0.00	0.00	850.00	
Totals:	21,750.00	17,050.00	42,350.00	81,150.00

Name	Jan.	Feb.	Mar.	Total
Baker, Rebecca		300.00		300.00
Bingham, Charlotte		300.00		300.00
Blacklock, Jan		300.00	200.00	500.00
Brooks, Chrystal		100.00		100.00
Buck, Teresia		300.00		300.00
Burelsmith, Larry		200.00		200.00
Chambers, Debra	100.00	200.00	100.00	400.00
Creager, Jeffery		450.00	600.00	1,050.00
Faison, Sue		100.00		100.00
Hall, Jody		300.00		300.00
Haney, Dewayne	200.00	400.00	500.00	1,100.00
Hawk, Kenneth		300.00		300.00
Hemmeline, Beni		300.00		300.00
Holmes, Steve	250.00	500.00	250.00	1,000.00
Jordan, Luke		300.00		300.00
Kerr, Sonja		100.00		100.00
Kirkpatrick, Mark		200.00	150.00	350.00
Loper, Tom		200.00		200.00
McBeath, Don	100.00	400.00	600.00	1,100.00

McIntire, Robert		300.00		300.00
McLaurin, Ron		300.00		300.00
Nazario, Andy	200.00	400.00		600.00
Neal, O.K.		200.00		200.00
Northrup, Tanya		300.00	1,000.00	1,300.00
Peircy, Jane		200.00		200.00
Pope, Elaine	200.00	300.00	200.00	700.00
Powers, Melvin	250.00	500.00	250.00	1,000.00
Ratliff, Sunny		300.00		300.00
Rosas, Marta	550.00	950.00	550.00	2,050.00
Russell, Dora	100.00	200.00	100.00	400.00
Skirlock, W.R.		200.00		200.00
Tyson, Sherry	250.00	350.00	250.00	850.00
Vaughn, Cheryl		100.00		100.00
Wadsworth, Venita		100.00		100.00
Wardwell, Sally		100.00		100.00
Wasley, Russell		300.00		300.00
West, Michael		300.00	500.00	800.00
Willey, Marybeth		100.00		100.00
Williams, Denise		300.00	500.00	800.00
Williams, Rebecca		100.00	400.00	500.00
Williams, Renee		100.00		100.00
Yokom, Mark		300.00		300.00
Young, John		300.00		300.00
	2,200.00	11,850.00	6,150.00	20,200.00

=====Extract from Lubbock County Election Records====

CANDIDATE/OFFICEHOLDER
SWORN REPORT OF
CONTRIBUTIONS AND EXPENDITURES

Full Name of Candidate or Officeholder: L. J. Blalack
Address of Candidate or Officeholder:
3311 60th Street, Lubbock, TX. 79413
Office Held: Justice of Peace, Prec. 1 Pl. 1

Office Sought: Justice of Peace Precinct 1 Place 1
Name of Campaign Treasurer: Mary Jane Hinkle
Residence or Business Street Address of Campaign Treasurer
5422 28th Street Lubbock, Texas 79407
For the period October 8, 1989, through January 15, 1989.
January 15
I have been notified by the following that they accept political contributions or they make political expenditures for me. (Tex. Elec. Code Ann. secs. 254.061(3), (4); 254.091(2).
Full Name and Address of Political Committee:
Committee to Re-elect Judge L.J. Blalack
Full Name and Address of the Committee's Campaign Treasurer.
Mary Jane Hinkle, 5422 28th Street, Lubbock, Texas 79407

Contributor Full Name and Complete Address	Money or Equivalent
Gene Cobb 3313 58th, Lubbock, TX. 79413-5506	25.00
J. David Nelson **916 Main Suite 1220, Lubbock, Texas 79401**	**100.00**
Lockki Nelson **Same**	**100.00**
Jim Darnell **Same**	**50.00**
John Collier 1401 Ave. G, Lubbock, Texas 79413	50.00
Cleddie Edwards 1001 Main Suite 731, Lubbock, Texas 79401	50.00
Travis Shelton 1801 Avenue Q, Lubbock, Texas 79401	150.00
Frank Murchison P. O. Box 6170, Lubbock, Texas 79408	50.00
Total:	575.00

Filed for record 89JAN16 P4:41 /s/Ann Davidson
County Clerk, Lubbock County, Texas

STATE COMMISSION ON JUDICIAL CONDUCT
P. O. BOX 12265, Capitol Station
Austin, Texas 78711
COMPLAINT FORM

Complainant: Orville R. Wilmington
5431 16th Street
Lubbock, Texas 79416
806-795-0427

Judge: L.J. Blalack
Court: Precinct 1,Place 1
Loc: Lubbock, Texas

Opposing
Attorney: Denise Williams
PO BOX 10536
Lubbock, Texas 79408
806-741-8043

Status of Case: Concluded

****

The State of Texas
County of Lubbock

Before me the undersigned, a Notary Public in and for said County, State of Texas, on this day personally appeared *Orville R. Wilmington* to me well known, and who, after being by be duly sworn, deposes and says upon information and belief that:

After receiving a citation on Feb. 12, 1986, from Constable Cundiff for having no inspection sticker on a newly acquired vehicle on which I had just replaced a windshield and after speaking with the police station and receiving advice to explain the circumstances to the judge, I attempted to do so on Feb. 14th. Judge Blalack told me it was necessary to plead NOT GUILT before he could listen to me. When I did so, he instructed me to return Feb. 27th and he would have Constable Cundiff present to hear both sides of the story.

Upon returning on Feb. 27th, Judge Blalack asked if I wanted to change my plea and pay the fine. I responded that I would merely like to explain the circumstances and to be instructed in what the law actually states so I could make a

reasonable decision one way or the other. He then said something vague about changing my plea before he could listen to me. By then, totally confused, when he asked if I wanted a trial by jury, I replied yes if that was what was necessary to explain the circumstances. **I returned as directed that same afternoon for a trial where I was repeatedly intimidated and humiliated by the judge (not the prosecuting attorney or any other official) for my lack of knowledge of court room procedure.**

All this resulted in a $60 fine which I did not have on my person. After threatening to put me in jail the judge asked how I proposed to pay this fine. I indicated that I could get the money and return with it later in the day or early the next morning. I also asked if it would be possible to appeal this decision. Judge Blalack replied with some aggravation that it would cost me a great deal more to take this matter to county court. I then asked if I had some time to make that decision and to seek some legal counsel. At this time Judge Blalack flew into a rage and told me I had had my trial and had no more time. He then directed me to sit down until I was escorted to jail moments later.

I sincerely believe the man is suffering from a disease, alcoholism, or something that is greatly interfering with his ability to perform his duties in a coherent manner as a Justice of the Peace.

/s/Orville R. Wilmington

Subscribed and sworn to before me, this 14th day of April, 1986.

/s/ Martha Brown

Notary Public in and for Lubbock County, Texas
My Commission expires June 19, 1989

----------**Lubbock County Jail Property Record** ----------

February 27, 1986

Property Record
Name: Wilmington, Orville Robert
Date: 2-27-86 6-4-38
Total cash: $52.88
belt: Black; billfold: Black; comb: Black; drivers license: Tex;

key(s): (ring) 15; knife: 1; nail clip: white; pen: 7; shoes: Black; sock: 1 pr.; watch: yellow; Pen case: one.

Inmate In: /s/Orville Wilmington

Receiving Officer: /s/R. Lewis #33

----------Jury Docket February 27, 1986----------

Criminal Jury Docket for 10:00 a.m., February 27, 1986
Justice of the Peace Court
Precinct 1, Place 1
Lubbock County, Texas

All Defendants must Be in the Courtroom Either in Person or by Attorney at 10:00 a.m. When the Docket Is Called.

Defendant/times Passed	Cause#	Offense	Bondsmn	Witness	Attorney
1. Randy Lee Caro/1	106462	Speeding 60/35	LBB	Abreo	DPS
	106463	Fail to drive in single ln.	"	"	
2. Steven Paul Snedegar	106691	Speeding 71/55	Will's		Hernandez
	106692	Operate unreg.	"	DPSMV	
3. Alburn Connors Adams/5	107164	DOC:L&P	LBB		Bohannan
				Mary Bobbitt	LSO
4. Greggory Don Sanders/3	107399	Assaul	Nat's		Bulls&Cox
				Cynthia Brown	LPD
5. Jerome Brito 3	107555	PI	LBB		Jenkins
	107556	DOC:L&P	"	LPD	
6. Edward Martinez Silva	107764	PI	LBB	Pierce	LPD
7. Robert Wayne Dixon/1	107888	DOC:L&P	Nat'l	Riemor	LPD
8. Inez Dunn/1	107898	PI	LBB	Surface	LPD
9. David Offlin Irwin	107902	Speeding 88/55	Dan Munoz	DPS	Young
10. Gregory Hal Rowe	107955	Speeding 88/55	Goldston	DPS	King
11. Frank Soria, Jr.	107989	PI	LBB	Bachman	LPD
12. Jerry Paul Roderick	107992	PI	LBB	Stallings	LPD
13. Travis Lowell Mapes	107993	PI	LBB	Esparza	LPD
14. Dennis Weldon Boyles	107996	PI	LBB	Barnhill	LPD
				Bob Jones	
15. Refugio Salazar, Jr.	107998	No DL	LBB	Harrison	LPD
	107999	Ran Stop Sign	"	"	
	108000	No Ins.	"	"	
16. Joe Dominguez	108041	PI	SOS	Knox&Bagby	LPD
17. Orville Robert Wilmington	**108042**	**No MVI**		**Cundiff**	**Const. #4**
18. Martin Martinez	108050	Fail to drive in single ln.	LBB	Abreo	DPS
	108051	Violate DL	"	"	

	108052 Rest. A			
	108052 No. Ins.	"	"	
19. James David Tidwell	108103 Exp. MVI		PR	Cundiff Const. #4
	CHECK DOCKET			
1. Paula R. Wright 2	WC291	IBC	LBB	Gladys Shobert
2. Jeana Harrison 7	655836	IBC	Ace	Leroy Melton
	Ricardo Martinez			
3. David Reese 3	655968	IBC	LBB	Bill Skirlock
4. Tammy Smith 3	655999	IBC	PR	Bill Skirlock
5. Bobby Blagg 4	656004	IBC	LBB	Bill Skirlock

State Commission
on Judicial Conduct
April 28, 1986

Mr. Orville R. Wilmington
5431 16th Street
Lubbock, Texas 79416

Dear Mr. Wilmington:

We have received your recent letter concerning a Texas Judge. The State Commission on Judicial Conduct will review and take action on the matter at the earliest opportunity following any investigation or inquiry which would be appropriate for our staff to conduct. For your information, the Commission's activities are governed by Article V, Section 1-a of the Texas Constitution and Chapter 33 of the Government Code in the Texas Revised Civil Statutes.

The Commission appreciates your taking the time to advise us of this situation, and rest assured that the matter will receive serious attention.

Yours truly,
/s/ Robert Flowers

State Commission
on Judicial Conduct
June 10, 1986

Mr. Orville R. Wilmington
5431 16th Street
Lubbock, Texas 79416
Dear Mr. Wilmington:

Staff has completed its investigation and analysis of your complaint against a Texas judge. **Our inquiry revealed that you were not arrested, and you were not booked into jail,** when you inquired about your rights of appeal. Accordingly, your complaint will be presented to the next regularly scheduled meeting of the State Commission on Judicial Conduct with the recommendation that it be dismissed. Unless the Commission rules to the contrary, we consider this case closed.

Even though the case is dismissed, however, an inquiry such as the one that staff conduct does work to keep the judiciary alert as to their demeanor and the effect of their comments from the bench.

Yours truly, /s/ Robert Flowers

July 7, 1986
Dear Mr. Flowers,

Would it be possible to obtain a clarification of your letter of June 10, 1986. (Enclosed)

Are you saying that your investigation revealed that I was not arrested and jailed, or that I was arrested and jailed for just cause?

If I was not arrested and booked, then I would like to know what this procedure might be. I was escorted from Mr. Blalack's court room to the jail, told that I was being booked into jail for three days, also told that once I was booked the fine would be reduced (which turned out to be false) told that after I was booked I would be allowed a phone call. After being searched, stripped of my belongings, restrained for several hours behind bars, eventually fingerprinted, photographed, informed that my fine was not reduced, allowed a phone call, then restrained in a cell with 5 other inmates until such time that my wife was able to bring the cash to bail me out.

I sincerely believe I was booked into jail!

If you are saying that Mr. Blalack had just reason for arresting me then I would like to know what in my conduct justified this action.

Sincerely, /s/ Orville R. Wilmington

APPENDIX F

Excerpts from Statutory and Constitutional Provisions

==========United States Constitution==========

Amendments

Article IV

The right of the people to be secure in their persons, houses, papers and effects, **against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.**

Article V

No Person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life and limb; nor shall be compelled in any criminal case to be a witness against himself, **nor be deprived of life, liberty, or property, without due process of law**; nor shall private property be taken for public use without just compensation.

Article VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, **which district shall have been previous ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the assistance of counsel for his defense.**

Article VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Article XIV, Section 1

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of theUnited States; **nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."**

==========United States Statutes==========

Fair Debt Collection Practices Act: Title 15 Chapter 41 United States Code § 1692

(f). Unfair practices

A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law...

Title 18 Part I Chapter 13 United States Code
§ 241. Conspiracy against rights

If two or more persons conspire to injure, oppress,

threaten, or intimidate any person in any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, **with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured-- They shall be fined under this title or imprisoned not more than ten years, or both;** and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years.

Title 18 Part I Chapter 19 United States Code
§ 371. Conspiracy to commit offense or to defraud United States

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, **and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both...**

Title 18 Part I Chapter 95 United States Code
§1951 Interference with commerce by threats or violence (Hobbs Act)

(a) **Whoever in any way or degree obstructs, delays, or affects commerce** or the movement of any article or commodity in commerce, by robbery or **extortion or attempts or conspires so to do,** or commits or threatens physical violence to any

person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b) As used in this section-- ...

(2) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or **under color of official right...**

Title 18 United States Code Chapter 96
Racketeer Influenced and Corrupt Organizations Act

§1961. Definitions

As used in this chapter--

(1) "racketeering activity" means (A) **any act or threat** involving **...extortion ..., which is chargeable under State law and punishable by imprisonment for more than one year;** (B) any act which is indictable under any of the following provisions of title 18, United States Code:... **section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering)...**

(4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(5) "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

(6) "unlawful debt" means a debt (A)... **which is unenforce-**

able under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury... **where the usurious rate is at least twice the enforceable rate;**

(7) "racketeering investigator" means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter;

(8) "racketeering investigation" means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter;

(9) "documentary material" includes any book, paper, document, record, recording, or other material...

§ 1962. Prohibited activities

(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce...

(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section...

§ 1964. Civil remedies

(a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons...

(c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee...

§ 1965. Venue and process

(a) Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

(b) In any action under section 1964 of this chapter in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof...

=====Title 28 United States Code: Judiciary and=====
========== Judicial Procedure==========
Federal Rules of Civil Procedure

Rule 8(b)Defenses; Form of Denials. ...when the pleader does so intend to controvert all its averments, including averments on the grounds upon which the court's jurisdiction depends,

the pleader may do so by general denial subject to the obligations set forth in Rule 11...

(d) Effect of Failure to Deny. **Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading.** Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(e) **(2) A party may set forth two or more statements of a claim or defense alternately or hyopthetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficieny of one or more of the alternative statements. All statements shall be made subject to the obligations set forth in Rule 11.**

(f) **Construction of Pleadings. All pleadings shall be so construed as to do substantial justice.**

Rule 11

...Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit...The signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose... **If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction**, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, includng a reasonable attorney's fee.

Rule 12 Defenses and Objections

(a) When Presented. **A defendant shall serve an answer within 20 days after the service of the summons and complaint...**

Rule 18 Joinder of Claims and Remedies

(a) Joinder of Claims. A party asserting a claim to relief as an original claim, counterclaim, cross-claim, or third-party claim, **may join, either as independent or as alternate claims, as many claims, legal, equitable,** or maritime, as the party has against an opposing party...

Rule 19 Joinder of Persons Needed for Just Adjudication

(a) Persons to be joined if feasible. A person...shall be joined as a party in the action if (1) in the person's absence complete relief cannot be accorded among those already parties, or (2) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may (i) as a practical matter impair or impede the person's ability to protect that interest or (ii) leave any of the persons palready parties subject to a substnatial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest. If the person has not been so joined, the court shall order that the person be made a party. If the person should join as a plaintiff but refuses to do so, the person may be made a defendant, or, in a proper case, an involuntary plaintiff.

(b)

Rule 23: Class Actions.

(a) Prerequisites to a Class Action. One or more members of a class may sue or be sued as representative parties on behalf

of all only if (1) the class is so numerous that joinder of al members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

(b) Class Actions Maintainable. An action may be maintained as a class action if the prerequisites of subdivision (a) are satisfied, and in addition:

(1) the prosecution of separate actions be or against individual members of the class would create a risk of

(A) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or

(B) adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; or

(2) the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive rlief or corresponding declaratory relief with respect to the class as a whole; or

(3) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individial members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include: (A) the interest of members of the class in individually controlling the prosecution or defense of suparate actions; (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; (D) the difficulties likely to be encountered in the

management of a class action.

(c) Determination by Order Whether Class Action to be Maintained; Notice; Judgment; Actions Conducted Partially as Class Actions;

(1) As soon as practicable after the commencement of an action brought as a class action, the court shall determine by order whether it is to be so maintained. An Order under this subdivision may be conditional, and may be altered or amended before the decision on the merits;

(2) In any class action maintained under subdivision (b)(3), the court shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice shall advise each member that (A) the court will exclude the member from the class if the member so requests by a specified date; (B) the judgment, whether favorable or not, will include all members who do not request exclusion; and (C) any member who does not request exclusion may, if the member desires, enter an appearance through counsel.

(4) When appropriate (A) an action may be brought or maintained as a class action with respect to particular issues, or (B) a class may be divided into subclasses and each subclass treated as a class, and the provisions of this rule shall then be construed and applied accordingly.

(e) Dismissal or Compromise. A class action shall not be dismissed or compromised without the approval of the court, and notice shall be given to all members of the class in such manner as the court directs.

Rule 26. General Provisions Governing Discovery; Duty of Disclosure

(a) Required Disclosures; Methods to Discover Additional

Matter.

(1) Initial Disclosures. Except to the extent otherwise stipulated or directed by order or local rule, a party shall, without awaiting a discovery request, provide to other parties:...

(B) a copy of, or a description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to disputed facts alleged with particularity in the pleadings...

Unless otherwise stipulated or directed by the court, these disclosures shall be made at or within 10 days after the meeting of the parties under subdivision (f). ...

(5) Methods to Discover Additional Matter. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property under Rule 34 or 45(a)(1)(C), for inspection and other purposes; physical and mental examinations; and requests for admission.

(b) Discovery Scope and Limits. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. The information sought need not be admissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence...

A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by

that person. If the request is refused, the person may move for a court order...

(c) Protective Orders. Upon motion by a party or by the person from whom discovery is sought...the court in the district where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) that the disclosure or discovery not be had...

(d) Timing and Sequence of Discovery. Except when authorized under these rules or by local rule, order, or agreement of the parties, a party may not seek discovery from any source before the parties have met and conferred as required by subdivision (f). Unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery...

(1) A party is under a duty to supplement at appropriate intervals its disclosures under subdivision (a) if the party learns that in some material respect the information disclosed is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing...

(2) A party is under a duty seasonably to amend a prior response to an interrogatory, request for production, or request for admission if the party learns that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing...

(2) ...The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the request, response, or objection is:

(A) consistent with these rules and warranted by existing law or a good faith argument for the extension, modification, or

reversal of existing law;

(B) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and

(C) not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

Rule 33. Interrogatories to Parties

(a) Availability. Without leave of court or written stipulation, any party may serve upon any other party written interrogatories...

(b) Answers and Objections.

(1) Each interrogatory shall be answered separately and fully in writing under oath...

(3) The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories...

(4) All grounds for an objection to an interrogatory shall be stated with specificity. Any ground not stated in a timely objection is waived unless the party's failure to object is excused by the court for good cause shown.

(5) The party submitting the interrogatories may move for an order under Rule 37(a) with respect to any objection to or other failure to answer an interrogatory...

(d) Option to Produce Business Records. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, including a compilation, abstract or summary thereof, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer

may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries...

Rule 36. Requests for Admission

(a) Request for Admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rule 26(b)(1) set forth in the request that relate to statements or opinions of fact...

Each matter of which an admission is requested shall be separately set forth. **The matter is admitted unless, within 30 days after service of the request...**If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission... An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; the party may, subject to the provisions of Rule 37(c), deny the matter or set forth reasons why the party cannot admit or deny it.

The party who has requested the admissions may move to determine the sufficiency of the answers or objections...If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served...award of expenses incurred in relation to the motion.

(b) Effect of Admission. Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission...

Rule 37. Failure to Make or Cooperate in Discovery; Sanctions

(a) Motion for Order Compelling Disclosure or Discovery. A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling disclosure or discovery...

(A) If a party fails to make a disclosure required by Rule 26(a), any other party may move to compel disclosure and for appropriate sanctions...

(B) If a deponent fails to answer a question propounded or submitted under Rules 30 or 31...or a party fails to answer an interrogatory submitted under Rule 33, or if a party, in response to a request for inspection submitted under Rule 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling answer, or a designation, or an order compelling inspection in accordance with the request...

(3) Evasive or Incomplete Disclosure, Answer, or Response. For purposes of this subdivision an evasive or incomplete disclosure, answer, or response is to be treated as a failure to disclose, answer, or respond...if a party fails to obey an order entered under Rule 26(f), the court in which the action is pending may make such orders in regard to the failure as are just...In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising that party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(c) Failure to Disclose; False or Misleading Disclosure; Refusal to Admit.

(1) A party that without substantial justification fails to disclose information required by Rule 26(a) or 26(e)(1) shall not, unless such failure is harmless, be permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed.

(2) If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees...

Rule 41. Dismissal of Actions

(b) Involuntary dismissal: For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against the defendant...

Rule 56. Summary Judgment

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move **with or without supporting affidavits** for a summary judgment in the party's favor upon all or any part thereof...

(c) Motion and Proceedings Thereon. **The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits.** The judgment sought shall be rendered forthwith **if the pleadings, depositions, answers to**

interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.
(d) Case Not Fully Adjudicated on Motion. ...(the court shall) if practicable ascertain what material facts exist without substantial controversy and **what material facts are actually and in good faith controverted.**
... **(g) Affidavits Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.**

Rule 57. Declaratory Judgments

The procedure for obtaining a declaratory judgment pursuant to Title 28, USC, § 2201, shall be in accordance with these rules, and the right to trial by jury may be demanded under the circumstances and in the manner provided in Rules 38 and 39. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar.

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Extract from Local Rules of the Fifth Circuit Court of Appeals

X. SPECIAL PROCEEDINGS

Rule 10.2(c)
(c) **Discovery.** After commencement of an alleged class action,

discovery shall proceed only as to facts relevant to the certification of the alleged class. Although discovery relative to class certification may overlap with discovery on the merits, discovery concerning facts relevant only to the merits of the lawsuit shall not begin until the Court has ruled on the motion for certification.

Notice of Repeal of local rules effective Feb. 21, 1994.
Rule 10.2(c)

Rule 10.2(c) is repealed.

========**Constitution of the State of Texas**========

CONSTITUTION OF THE STATE OF TEXAS 1876

ARTICLE I. BILL OF RIGHTS

§ 3. All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

§ 5. No person shall be disqualified to give evidence in any of the Courts of this State on account of his religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury.

§9. The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

§ 10. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He...shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor...

§ 11. All prisoners shall be bailable by sufficient sureties...

§ 13. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.

§ 15. The right of trial by jury shall remain inviolate...

§ 17... no irrevocable or uncontrollable grant of special privileges or immunities, shall be made; but all privileges and franchises granted by the Legislature, or created under its authority shall be subject to the control thereof.

§ 18. No person shall ever be imprisoned for debt.

§ 19. No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

§ 29. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

==========**Texas Statutes**==========

Texas Education Code

4.25 Thwarting Compulsory Attendance Law

(a) If any parent or person standing in parental relation to a child within the compulsory school attendance ages and not lawfully exempt or properly excused from school attendance, fails to require such child to attend school for such periods as required by law, it shall be the duty of the proper attendance officer to warn, in writing, the parent or person standing in parental relation that attendance must be immediately required. If after this warning the parent or person standing in parental relation intentionally, knowingly, recklessly, or with criminal negligence fails to require the child to attend school as required by law, the parent or person standing in parental relation commits an offense. The attendance officer shall file a complaint against him in the county court, in the justice court of his resident precinct,

or in the municipal court of the municipality in which he resides. An offense under this section is punishable by a fine of not less than $5 nor more than $25 for the first offense, not less than $10 nor more than $50 for the second offense, and not less than $25 nor more than $100 for a subsequent offense. Each day the child remains out of school after the warning has been given or the child ordered to school by the juvenile court may constitute a separate offense.

Texas Local Government Code
Title 4, Subtitle B, Chapter 118, Subchapter Y
[formerly Title 61 Article 3908 of Texas Governmen Code]

§ 118.801. Overcharging of Fees; Penalty

An officer named in this chapter who demands and receives a higher fee than authorized under this chapter or a fee that is not authorized under this chapter is liable to the aggrieved person for four times the amount unlawfully demanded and received.

Texas Penal Code, Title 8, Chapter 37
Perjury and Other Falsification

§ 37.01. Definitions
In this chapter:
(1) "Governmental record" means:
(A) anything belonging to, received by, or kept by government for information;
(B) anything required by law to be kept by others for information of government; or
(C) a license, certificate, permit, seal, title, or similar document issued by government.
(2) "Official proceeding" means any type of administrative, executive, legislative, or judicial proceeding that may be

conducted before a public servant authorized by law to take statements under oath.

(3) "Statement" means any representation of fact.

§ 37.02. Perjury

(a) A person commits an offense if, with intent to deceive and with knowledge of the statement's meaning:

(1) he makes a false statement under oath or swears to the truth of a false statement previously made; and

(2) the statement is required or authorized by law to be made under oath.

(b) An offense under this section is a Class A misdemeanor.

§ 37.03. Aggravated Perjury

(a) A person commits an offense if he commits perjury as defined in Section 37.02 of this code, and the false statement:

(1) is made during or **in connection with an official proceeding;** and (2) **is material.**

(b) An offense under this section is a **felony of the third degree.**

§ 37.04. Materiality

(a) **A statement is material, regardless of the admissibility of the statement under the rules of evidence, if it could have affected the course or outcome of the official proceeding.**

(b) It is no defense to prosecution under Section 37.03 of this code (Aggravated Perjury) that the declarant mistakenly believed the statement to be immaterial.

(c) Whether a statement is material in a given factual situation is a question of law.

§ 37.06. Inconsistent Statements

An information or indictment for perjury under Section 37.02 of this code or aggravated perjury under Section 37.03 of this code that alleges that the declarant has made statements under oath, both of which cannot be true, need not allege which

statement is false. At the trial the prosecution need not prove which statement is false.

§ 37.07. Irregularities No Defense

(a) It is no defense to prosecution under Section 37.02 (Perjury) or 37.03 (Aggravated Perjury) of this code that the oath was administered or taken in an irregular manner..., or that there was some irregularity in the appointment or qualification of the person who administered the oath.

(b) It is no defense to prosecution under Section 37.02 (Perjury) or 37.03 (Aggravated Perjury) of this code that a document was not sworn to if the document contains a recital that it was made under oath, the declarant was aware of the recital when he signed the document, and the document contains the signed jurat of a public servant authorized to administer oaths.

§ 37.09. Tampering With or Fabricating Physical Evidence

(a) A person commits an offense if, **knowing that an investigation or official proceeding is pending** or in progress, he:

(1) alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding; or

(2) **makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent to affect the course or outcome of the investigation or official proceeding...**

(c) An offense under this section is a **felony of the third degree.**

§ 37.10. Tampering With Governmental Record

(a) A person commits an offense if he:

(1) **knowingly makes a false entry in, or false alteration of, a governmental record;**

(2) makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;

(3) intentionally destroys, conceals, removes, or otherwise

impairs the verity, legibility, or availability of a governmental record; or...

(4) makes, presents, or uses a governmental record with knowledge of its falsity...

(c) Except as provided in Subsection (d) of this section, an offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the third degree.

(d) An offense under this section is a felony of the third degree if it is shown on the trial of the offense that the governmental record was a license, certificate, permit, seal, title, or similar document issued by government, **unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the second degree.**